

TITLE XV: LAND USAGE

Chapters:

- 151. SUBDIVISION REGULATIONS**
- 152. ZONING CODE**
- 153. COMPREHENSIVE PLAN**

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CHAPTER 151: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 151.001 PURPOSE.

The subdivision regulations as herein set forth are intended to provide for harmonious development of the village and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the comprehensive plan of the village; for adequate open spaces for traffic, recreation, light, and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to ensure conformance of subdivision plans with the capital improvement program of the village and its

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planning area; and to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers, the Planning Commission, and Board of Trustees.
(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.002 JURISDICTION.

The provisions of these regulations shall apply to all land located within the legal boundaries of the village, as the same may be amended by subsequent annexation, and shall also include all land lying within 1 mile of the corporate limits of the village, and not located in any other village.
(Neb. RS 17-1002) (Ord. 1997-7.1, § 3, passed 7-14-1997)

Cross-reference:

Village limits, See § 11.02

§ 151.003 POWERS.

No plat of a subdivision of land lying within the zoning jurisdiction of the village shall be filed or recorded until it shall have been submitted to, and a report and recommendation thereon made, by the Planning Commission to the Board of Trustees and the Board of Trustees has approved the final plat.
(Neb. RS 17-1003) (Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.004 INTERPRETATION.

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.
(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.005 CONFLICT.

(A) No final plat of land within the force and effect of Chapter 152 shall be approved unless it conforms to the regulations of this chapter.

(B) Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in Chapter 152, Chapter 140, or other official regulations or ordinances, the most restrictive shall apply.
(Neb. RS 19-914) (Ord. 1997-7.1, § 3, passed 7-14-1997)

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§ 151.006 BUILDING PERMITS.

Not more than 1 building permit for a permitted use shall be issued for each separate tract existing at the effective date of this chapter unless the tract shall have been platted in accordance with the provisions of this chapter.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.007 AMENDMENTS.

Any regulations or provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the Board of Trustees. The amendments shall not become effective until after a public hearing before the Planning Commission in relation thereto has been held, public notice of which shall have been published in a newspaper of general circulation at least 1 time 10 days prior to the hearing.

(Neb. RS 19-904, 19-905) (Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.008 MODIFICATIONS.

Where in the case of particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in extraordinary hardship to the subdivider because of unusual topography, or other the nonself-inflicted conditions, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Board of Trustees, after report by Planning Commission may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that: the variance, modifications, or waiver will not adversely affect the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and will not interfere with carrying out the comprehensive plan of the planning area of the village. The standards and requirements of these regulations may be modified by the Board of Trustees after report by the Planning Commission in the case of a plan or program for a new town, a complete community, a neighborhood unit, a group housing development, or an urban renewal project involving the resubdividing and rebuilding of blighted or slum areas.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.009 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLEY. A public right-of-way which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

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

BUILDING INSPECTOR. The Building Inspector of the Village of Bennet, Nebraska.

CLERK/TREASURER. Village Clerk/Treasurer of the Village of Bennet, Nebraska.

COMPREHENSIVE PLAN. The plan or series of plans for the future development of the village and approved, as may be required as a guide for future development. The plan may alternatively be called by the descriptive terms as a “master plan” or “development plan.”

CUL-DE-SAC. A short public way with 1 end open to traffic and the other end terminated by vehicular turn-around.

DEAD-END STREET. A public way which has only 1 outlet for vehicular traffic and does not terminate in a vehicular turn-around.

DEDICATION. The intentional transfer of specified lands by the owner to some public use.

DEVELOPER. See “Subdivider.”

EASEMENT. A grant by the property owner of the use of a strip of land by the public, or a public agency or utility for a specific purpose or purposes.

ENGINEER. The engineer ordinarily retained by the Village of Bennet, Nebraska, for the recommendation, advice, and execution of engineering work.

FRONTAGE ROAD. Minor streets parallel to and adjacent to arterial streets and highways, and which reduce the number of access points to the arterial street or highway for the purpose of increased traffic safety.

GOVERNING BODY. The Village Board of Bennet, Nebraska.

IMPROVEMENTS. Street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other installation as designated by the Village Board or its specific approving authority.

LOT. A measured portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE, FRONTAGE. A lot having frontage on 2 nonintersecting streets.

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LOT, REVERSIBLE FRONTAGE. A lot which extends continuously between 2 parallel or approximately parallel streets bounding a block and is abutted along 1 street frontage by an easement for screen planting. A block containing reverse frontage lots is composed of 1 tier of lots rather than the standard 2 tiers.

LOT, WIDTH OF. The minimum street frontage measured along the front street property line except when a lot fronts on the inside or concave side of a cul-de-sac or horizontal curvilinear alignment of a street; in which case, the minimum lot width shall be measured along the building line of the principal use structure extended to both lot property lines that meets or exceeds the zoning setback requirements for that district.

MONUMENT. An identification marker established by certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street center line, or other point.

PLANNING COMMISSION. The Planning Commission of the Village of Bennet, Nebraska.

PLAT.

(1) A map drawn to scale from an accurate survey and including items set forth herein along with all certificates and statements required herein and by statute, for the purpose of recording as a subdivision of land.

(2) Without modifying adjectives, it shall refer to land subdivision documents which have been officially recorded.

STREET. A right-of-way, dedicated to public use, which affords a primary means of access to the abutting property.

STREET, ARTERIAL. A street designated as an arterial street in the comprehensive plan for the village or the 1 and 6 Year Improvement Plan.

STREET, COLLECTOR. A street designated as a collector street in the comprehensive plan for the village or the 1 and 6 Year Improvement Plan.

STREET, LOCAL/RESIDENTIAL. A low volume street intended to serve individual residences in a residential district.

SUBDIVIDER. A natural person, firm, partnership, association, or any other group who submits a proposed subdivision for approval.

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SUBDIVISION. The division of a lot, tract, or parcel of land into 2 or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, except that the division of land shall not be considered to be a subdivision when the smallest parcel created is more than 10 acres in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2004-12.1, passed 12-13-2004)

§ 151.010 PUBLICATION (Repealed Ord. 2007-1.1, § 1, passed 1-8-2007)

PROCEDURE FOR SUBDIVISION APPROVAL

§ 151.025 PRE-APPLICATION PROCEDURE.

Before filing a preliminary plat, the subdivider shall consult with the Planning Commission for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on the topographic survey map shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and arterials and existing community facilities. The pre-application procedure does not require formal application, fee, or the filing of plat with the Planning Commission.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.026 PRELIMINARY PLAT.

In obtaining approval for a proposed subdivision, the subdivider shall submit a preliminary plat showing and including data specified in §§ 151.045 *et seq.* and in accordance with the following procedure:

(A) The subdivider shall prepare a preliminary plat and file with the village 6 copies of the preliminary plat, together with an additional 8 inches x 11 inches version capable of being photocopied, a written application, and the fee as set by resolution of the Board of Trustees.

(B) The Village Clerk/Treasurer shall notify the Board of Trustees of the application and shall refer the proposed preliminary plat to the Planning Commission for their consideration. The preliminary plat shall be referred to the Planning Commission at least 15 days prior to the meeting at which it is to be reviewed.

(C) The Planning Commission shall examine the plat as to its compliance with these regulations, and the Comprehensive Development Plan, and shall have 60 days in which to submit a written recommendation to the Board of Trustees for their consideration. In case of modification or disapproval, the Commission shall give its reasons.

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(D) The Board of Trustees upon receiving the Commission's recommendation, or after 45 days, shall by resolution grant approval or reject the preliminary plat. Approval of preliminary plat by the Board of Trustees or any extension thereof shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2007-1.1, § 2, passed 1-8-2007) Penalty, See § 151.999

§ 151.027 FINAL PLAT.

In obtaining approval for a proposed subdivision, the subdivider shall submit a final plat showing and including the data specified by §§ 151.045 *et seq.* in accordance with the following procedure.

(A) A final plat shall be submitted within 12 months of the approval of the preliminary plat, or the approval shall expire and the preliminary plat shall be resubmitted for approval prior to the preparation of the final plat.

(B) Procedures for final plat shall be the same as set out for the preliminary plat.

(C) Upon approval of the final plat, a certification of approval signed by the Village Chairperson and attested by the Village Clerk/Treasurer shall be affixed to the original of the final plat and copies of the same filed with the County Clerk and County Register of Deeds, along with the other certifications and instruments as may be required by law.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.028 MINOR SUBDIVISION REPLAT.

(A) *General.* Minor subdivision or administrative replat shall only be used to create a maximum of 4 lots from any lot, tract, or parcel of land. If the 4 lots have been created under this procedure since January 1980, any further subdivision shall not be done without submission of both preliminary and final plats. Exceptions to the foregoing restriction shall be permitted only to allow adjustment of lot lines in cases of mistake or error or in cases of substantial hardship in connection with the establishment of necessary minimum area or yard requirements as set forth in the Zoning Regulations (Chapter 152). The Board of Trustees or its designated agent may approve or disapprove lot splits in accordance with the following regulations.

(B) *Application procedure.* Requests shall be made by or through the owner of the land to the Village Clerk/Treasurer. Six copies of a scale drawing of the lots involved and any structures thereon, together with an additional 8 ½ inches x 11 inches version capable of being photocopied and the application fee as set by resolution of the Board of Trustees, shall accompany the application. All replats of lots and minor subdivision shall be filed with the village and approved by the village before any transfer of title or ownership. The replats and lot splits shall be drawn to a scale of not to exceed 1 inch equal to 100 feet, including lot dimensions, a form for the certification by a registered land

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surveyor, a form for the certification of the County Treasurer that all tax obligations are current, a form for the approval by the village, and a form for a notarized certification signed and acknowledged by all parties having any titled interest. The replats will be drawn on a sheet 18 inches x 28 inches, or as approved by the Register of Deeds. The replats will automatically vacate the previous plat of record upon filing with the Register of Deeds.

(C) *Approval guidelines.* Approval or disapproval of lot splits shall be made, based on the following guidelines.

(1) No minor subdivision shall be approved where:

(a) A new street or alley is needed or proposed;

(b) A vacation of streets, alleys, setback lines, access control, or easements is required or proposed;

(c) If the action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, and the like; or will interfere with maintaining existing service level, e.g., additional curb cuts, repaving, and the like;

(d) There is less street right-of-way than required by these regulations or the Comprehensive Development Plan unless the dedication can be made by separate instrument;

(e) All easement requirements have not been satisfied;

(f) If the split results in a tract without direct access to a street;

(g) A substandard-sized lot or parcel will be created that is not in conformance with the Zoning Ordinance; or

(h) If the lot has been previously split in accordance with these regulations.

(2) No lot split shall be approved unless all required public improvements have been installed or the developer has submitted an improvements agreement approved by the Village Board, no new dedication of public right-of-way or easements is involved, and the subdivision complies with the Zoning Regulations (Chapter 152) requirements concerning minimum areas and dimensions of the lots.

(3) (a) The village shall, in writing, either approve, with or without conditions, or disapprove the lot split within 30 days of application.

(b) The village shall sign and furnish a certificate of approval to be affixed to the lot split survey and a certified copy thereof shall be filed with the Register of Deeds, the official designated to issue building or occupancy permits, and a copy shall be furnished to the applicant.

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(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 3, passed 1-8-2007) Penalty, See § 151.999

§ 151.029 PLATS OUTSIDE CORPORATE LIMITS.

Procedure for approval of preliminary and final plats of land within 1 mile of the corporate limits shall be the same as set out above, except that 6 copies of the plat shall be filed at the Office of the Village Clerk/Treasurer. The Village Clerk/Treasurer shall refer one copy to the County Planning Department and one copy to the Rural Water District with a request for their recommendations to be submitted to the Planning Commission. The Planning Commission shall not take action on the plat prior to receiving the recommendations of the County Planning Department and Rural Water District. If no recommendation is received by the Planning Commission within 30 days, the plat shall be deemed approved by the County Planning Department and Rural Water District.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 4, passed 1-8-2007) Penalty, See § 151.999

§ 151.030 SUBMISSION TO THE SCHOOL BOARD AND RURAL FIRE DISTRICT.

Prior to any approval on the preliminary or final plats by the Planning Commission and Board of Trustees, a copy of each preliminary or final plat shall be submitted to the School Board and Rural Fire District for their consideration and recommendations. The School Board and the Rural Fire District shall within 30 days recommend in writing to the Board of Trustees that the plat be approved or disapproved in whole or in part or with the changes as may be desirable. This recommendation shall be advisory, and failure of the Board of Education or the Rural Fire District to make written recommendation within 30 days shall be construed as an approval of the proposal submitted.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 5, passed 1-8-2007) Penalty, See § 151.999

§ 151.031 REFERRED TO VILLAGE ENGINEER; ADDITIONAL PROFESSIONAL ASSISTANCE.

The Village Clerk/Treasurer shall submit one (1) copy of all preliminary and final plats to the Village Engineer for review and comment prior to review and recommendation by the Planning Commission. The Board of Trustees or the Planning Commission may request such additional professional assistance as deemed necessary to properly evaluate the plats submitted.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 6, passed 1-8-2007)

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PLAT SPECIFICATIONS

§ 151.045 PRELIMINARY PLAT.

The preliminary plat shall be drawn to a scale of not to exceed 1 inch equal to 100 feet, shall be plainly marked "Preliminary Plat," and shall include, show, or be accompanied by the following information:

(A) A location map showing the subdivision name, an outline of the area to be subdivided, the existing streets and town utilities on adjoining property, and the north point and scale;

(B) The proposed name of the subdivision which must not be so similar to that of an existing subdivision as to cause confusion;

(C) The names and addresses of the owner and subdivider, and the engineer, surveyor, or landscape architect responsible for the survey or design;

(D) The legal description of the area being platted;

(E) The boundary line (accurate in scale), dimensions, and location of the property to be platted, and the location of monuments found or set, section lines, contours with the intervals of 5 feet or less; and, the approximate acreage of the property to be platted;

(F) A date, scale and north point, and a key map showing the general location of the proposed subdivision in relation to surrounding developments;

(G) Location of property lines and the width and location of platted streets or alleys within or adjacent to the property; physical features of the property, including location of water courses, ravines, bridges, culverts, present structures, and other features affecting the subdivision; and the location of all existing utilities with their sizes indicated. The outline of wooded areas or the location of important individual trees may be required;

(H) The layout or location, numbers or names, and approximate dimensions or widths of all proposed lots; of all building setback lines and easements; and all of streets, alleys, and grounds proposed to be dedicated for public use;

(I) The location and width of proposed streets, roads, lots, alleys, sanitary and storm sewers, water mains, and other features and improvements required by this chapter, and their relation to streets and alleys in adjacent subdivisions. If there are no adjacent subdivisions, then the key map shall show the location and distance to the nearest subdivision, and how the streets, alleys, or highways in the subdivision offered for approval may connect with those in the nearest subdivision;

(J) The existing zoning classification and proposed uses of land within the proposed subdivision shall also be designated; and

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(K) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, drainage structures, and other required improvements.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 7, passed 1-8-2007) Penalty, See § 151.999

§ 151.046 FINAL PLAT.

(A) The final plat shall be legibly drawn at a scale of not to exceed 1 inch equal to 100 feet.

(B) The final plat shall include, show, or be accompanied by the following information:

- (1) The title under which the subdivision is to be recorded;
- (2) The name or names of the owners and subdividers;
- (3) A date, scale and north point, basis of bearings, and a key map showing the general location of the proposed subdivision;
- (4) The legal description of the area being platted in metes and bounds, by bearing and distance;
- (5) Accurate distances and bearings of all boundary block and lot lines of the subdivision including all sections and U.S. Survey and Congressional township lines;
- (6) Center lines of all proposed and adjoining streets with their right-of-way width and names;
- (7) Lines of all blocks and lots with systematic method of numbering to identify all lots and blocks;
- (8) All building setback lines and all easements provided for public service, together with their dimensions and any limitations of the easements;
- (9) Any and all dimensions necessary for accurate location of the boundaries of the site to be developed and of all streets, alleys, lots, easements, and dedicated areas. These dimensions shall be expressed in feet and decimals;
- (10) All radii, points of tangency, central angles, and lengths of curves;
- (11) All survey monuments and benchmarks, found or set, together with their physical description;

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(12) Certification by a surveyor or engineer to the effect that the final plat represents a survey made by him or her, that the monuments shown, found, or set are in the positions indicated, and that all necessary information is correctly shown thereon;

(13) The accurate outline, dimensions, and purposes of all property which is offered for dedication or is to be reserved for acquisition for public use, or is to be reserved by deed or covenant for the common use of the property owners in the subdivisions;

(14) An affidavit of ownership showing fee simple title and encumbrances and liens, and a certificate of dedication of all land intended for public use, signed by the owner or owners and all other properties who have a mortgage or lien interest in the property;

(15) Construction drawings, profiles, cross-sections, and specifications subject to certification and approval of the Village Engineer; and

(16) Signature spaces for approval of the Commission Chairperson and Secretary and also the Village Engineer and authorized representative of the Board of Trustees.
(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 8 passed 1-8-2007) Penalty, See § 151.999

DESIGN STANDARDS

§ 151.060 CONFORMANCE TO THE COMPREHENSIVE PLAN.

(A) In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to best conform with any recommendations of Chapter 153.

(B) Any provisions for schools, parks, and playgrounds should be indicated on the preliminary plat in order that it may be determined when and in what manner the areas will be provided or acquired by an appropriate agency.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.061 CONFORMANCE TO THE STREET PLAN.

Unless otherwise approved by the Planning Commission and Board of Trustees, provision must be made for the extension of major and collector streets as shown on the street plan of the village and local streets must provide free circulation within the subdivision.

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(A) The system of streets designated for the subdivision, except in unusual cases, must align with streets already dedicated in adjacent subdivisions, and where no adjacent connections are platted, must in general be the reasonable projection of streets in the nearest subdivisions, and must be continued to the boundaries of the tract subdivided, so that other subdivisions may connect therewith.

(B) Rights-of-way providing for the future opening and extension of the streets as outlined herein may, at the discretion of the Commission, be made a requirement of the plat.

(C) Off-center street intersections will not be approved except in unusual cases.

(D) In general, streets shall be of a width at least as great as that of the streets they connect to so that they continue existing or projected streets.

(E) Local streets shall be arranged so as to discourage through traffic.
(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.062 STREET CLASSIFICATION TABLE.

Unless modified elsewhere in these regulations, the minimum right-of-way widths, pavement widths (back to back of curb), and grades for interior streets and alleys included in any subdivision shall conform to the minimum design standards established by the Board of Classifications and Standards, Nebraska Department of Roads.

<i>Classification</i>	<i>Right-of-Way (Minimum Feet)</i>	<i>Pavement Width (Minimum Feet)</i>	<i>Maximum Grade (%)</i>
Thoroughfare street or highway	100	45	6
Collector streets	80	39	8
Residential streets	60	25	10
Minor residential streets/frontage	50	25	-
Residential alleys	20	20	-
Commercial or industrial alleys	20	16	-

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.063 CUL-DE-SACS; DEAD-END STREETS.

No dedication of a half-street will be permitted unless by special approval of the Board of Trustees. If the special approval is granted, the dedicated half-street shall not be less than 33 feet in width and whenever subdivided property adjoins a half-street, the remainder of the street shall be dedicated. No dead-end streets shall be approved unless the streets are provided to connect with future streets in adjacent land and are dedicated to the village. Cul-de-sacs may be permitted where the form or contour of the land makes it difficult to plat with connected streets. Cul-de-sacs shall provide proper

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access to all lots, shall not exceed 500 feet in length, and shall be terminated with a turn-around having a minimum right-of-way of 110 feet.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.064 INTERSECTIONS AND JOGS.

Street intersections shall be nearly at right angles as possible, and no intersection shall be at an angle less than 80 degrees or greater than 100 degrees. The intersecting right-of-way lines at all street intersections shall be rounded by a minimum radius of 20 feet, unless a greater radius is required by the Board of Trustees. Detailed designs of intersections may be required. Street jogs with center line offsets of 125 feet or less shall not be permitted. Intersections of more than 2 streets at a point shall not be permitted.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.065 ALLEYS.

Alleys shall be discouraged in residential districts but shall be provided in commercial and industrial districts or to avoid dead ends where existing alleys have been platted.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.066 LOT ACCESS.

Every lot within a subdivision shall front on and have access to a publicly dedicated street, unless otherwise provided for in these regulations.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.067 BLOCKS.

(A) Residential blocks shall not be less than 264 feet nor more than 1,000 feet in length, except as the Board of Trustees considers necessary to secure efficient use of land or to achieve desired features of the street system.

(B) Where deemed essential for circulation or access to schools, playgrounds, shopping centers, or other community facilities, the Board of Trustees may require public crosswalks at locations other than the intersections.

(C) The crosswalks shall have a minimum easement width of 10 feet.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

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§ 151.068 MINIMUM LOT DIMENSIONS.

Lot dimensions and area for lots served by a public sewer shall conform to the requirements of Chapter 152. Lots not served by public sewer shall not be less than 60 feet in width nor less than 100 feet in depth, nor less than 20,000 square feet in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.069 EASEMENTS.

Where there are no streets or alleys, the village may require that easements of at least 6 feet in width shall be provided on each side of all rear lot lines and along side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utilities.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.070 LOCATION OF WATER AND SEWER.

Water and sewer lines shall be constructed so as to maintain a horizontal space of not less than 10 feet.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.071 PUBLIC SITES AND OPEN SPACES.

Where a proposed park, playground, school, or other public use is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of the area with the subdivision in those cases in which the Planning Commission deems the requirements to be reasonable.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.072 PROVISIONS FOR LARGE PARCELS.

If a proposed subdivision contains a parcel or parcels larger than the minimum required lot size of the zoning district, the parcels shall be arranged to permit continued development and the preliminary plat shall show a future street plan, utility system, and logical resubdivision.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.073 OUTLOTS; MAINTENANCE; ASSOCIATION.

Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees, roadways, street lighting, recreational facilities, storm water drainage, and storage facilities, or other physical facilities (“private improvements”) on outlots which are necessary or desirable for the welfare of the area and which are of common use or benefit and which the village does

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not maintain, the Subdivider shall be responsible for the proper maintenance and supervision of the outlots and private improvements on a permanent and continuous basis and shall retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on said permanent and continuous basis. However, the Subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners that will be responsible for said maintenance obligation. All such maintenance agreements shall be incorporated in covenants running with title to the subdivided property, and the documents creating the association and the restrictive covenants must be reviewed and approved by the Village Attorney and filed of record with the Register of Deeds. Notwithstanding the above, the Subdivider shall not be relieved of this maintenance obligation for each specific private improvement until the registered professional engineer or nurseryman who supervised installation of said private improvement has certified to the village that the improvement(s) has been installed in accordance with the approved plans and applicable standards.

(Ord. 2007-1.1, § 9, passed 1-8-2007)

§ 151.074 IMPROVEMENT OF PARKING AREAS; PARKING RESTRICTION; SCREENING.

All open parking areas shall be at a maximum of 9 feet x 20 feet, shall be ready for use upon occupying a building and shall be surfaced with a permanent, bituminous or concrete pavement meeting the standards of the specifications of the village within 6 months following the completion of the building. Ingress and egress shall be by means of paved driveways not exceeding 28 feet in width. Angle parking not exceeding 60 degrees may be permitted by approval of the Village Board from a public right-of-way under the terms and conditions granted by the permit. No other head-in parking from any public right-of-way shall be permitted. No parking spaces shall be located within 6 feet of an adjoining lot. Any lights used to illuminate the parking area shall be so arranged as to direct light away from any adjacent premises in a residential district. When such parking area is located in or adjacent to a residential zone, the following additional regulations shall apply:

(A) No sign shall be permitted thereon except those necessary for the orderly parking thereon.

(B) The Village Board may require any parking area to be screened by a wall, screen planting, or fence of a height that the Board deems adequate on any side where the parking area may adversely affect the adjacent property.

The Village Board in specific cases may require that any screen planting, fence, or wall around a parking lot shall be set back from a street if such setback will prevent adverse effects upon the appropriate use of adjacent property, or will prevent a traffic hazard; provided, that such setback need not be greater than the respective front or side yard requirements in that district.

(Ord. 2007-1.1, § 10, passed 1-8-2007)

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SUBDIVISION IMPROVEMENTS

§ 151.085 MONUMENTS.

Monuments shall be placed at all block corners, angle points, points of curves in streets, lot corners, and at the intermediate points as shall be required by the Board of Trustees.
(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.086 WATER LINES.

Where a public water main is reasonably accessible, the subdivision shall be connected to the water main and a water connection shall be provided for each lot and fire hydrants as approved by the Board of Trustees; provided, however, where the proposed subdivision is not within the corporate limits of the Village and is not being annexed, and when all proposed lots are three acres or more in area, individual water well systems or a community water system shall be installed in such a manner that an adequate supply of potable water is available to every lot within the subdivision.
(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 1, passed 8-11-2008) Penalty, See § 151.999

§ 151.087 SANITARY LINES.

(A) The subdivider shall provide the subdivision with a complete sewer system which shall connect with a sanitary sewer outlet approved by the Board of Trustees.

(B) The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property.

(C) Where the proposed subdivision is not within the corporate limits of the Village and is not being annexed, and when all proposed lots are three acres or more in area, on site wastewater treatment systems or community wastewater works shall be permitted if such systems are in conformance with all applicable requirements of Lancaster County and the state of Nebraska and proper permits have been received therefor.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 2, passed 8-11-2008) Penalty, See § 151.999

§ 151.088 STORM DRAINS.

The developer shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes, to provide for the collection and the removal of all

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surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.089 SIDEWALKS.

A 4 foot wide concrete sidewalk shall be provided adjacent to each lot frontage; provided, however, sidewalks shall not be required in a subdivision located outside of the corporate limits of the Village and not being annexed, when all proposed lots are three acres or more in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 3, passed 8-11-2008) Penalty, See § 151.999

§ 151.090 GRADING.

All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.091 CURB AND GUTTER.

Curb and gutter shall be installed on all roadways in the plat being dedicated for public use and shall be constructed of portland cement concrete in accordance with designs and specifications approved by the Board of Trustees and at grades established by the Board of Trustees; except that curbs and gutters shall not be required if the plat is not within the corporate limits of the Village and is not being annexed, and when all proposed lots are three acres or more in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 4, passed 8-11-2008) Penalty, See § 151.999

§ 151.092 SURFACING.

(A) All roadways being dedicated for public use shall be surfaced from curb to curb.

(B) Surfacing shall be portland cement concrete and shall be constructed in accordance with designs and specifications approved by the Board of Trustees at grades established by the Board of Trustees; provided, however, if not within the corporate limits of the Village and if not being annexed, and when all proposed lots are three acres or more in area, roadways may be surfaced with crushed rock or its equivalent or surfaced with asphaltic material or portland cement concrete.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2007-1.1, § 11, passed 1-8-2007; Am. Ord. 2008-5.1, § 5, passed 8-11-2008) Penalty, See § 151.999

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§ 151.093 SPECIFICATIONS.

The type of construction, the materials, the methods, and standards of subdivision improvements shall be equal to the current specifications of the village for like work. Plans and specifications shall be submitted to the Board of Trustees for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.094 OTHER IMPROVEMENTS.

The Board of Trustees, upon recommendation of the Planning Commission, may require the installation of street lights, street signs, and street trees.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.095 VILLAGE CONTROL.

No public improvements over which the Board of Trustees has control shall be made with village funds, nor shall any village funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the date of the adoption of these regulations unless the subdivision and streets have been approved in accordance with the provisions of these regulations and the street accepted by the Board of Trustees is a public street. The subdivider shall construct and install the improvements described in §§ 151.085 *et seq.* in accordance with the approved construction plan and specifications of the Board of Trustees and to its satisfaction or, submit a subdivision improvements agreement that provides a detailed construction schedule and specifications along with an escrow or surety bond in an amount to be approved by the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

ENFORCEMENT

§ 151.110 STREET PLAN.

(A) (1) After the Board of Trustees shall have adopted a street plan and filed the plan with the Register of Deeds for the County, no building shall be erected on any lot within the planning area which does not conform with the provisions of this chapter or Chapter 153.

(2) Further, a building may not be located within the planning area unless and until the street which will serve as access to the lot is approved by the Board of Trustees as a public street prior to the time of construction.

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(B) Any building erected in violation of this section shall be deemed an unlawful structure and the Inspector or other appropriate official may bring action to enjoin the erection or cause it to be vacated or removed.

(Neb. RS 19-913) (Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.111 FILING.

No map, plan, plat, or replat of any subdivision within the jurisdiction of this chapter shall be considered legally filed with the Register of Deeds for the County unless and until the same shall have been approved by the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.112 FEES.

Before a preliminary plan may be considered by the Board of Trustees, the subdivider shall deposit with the Village Clerk/Treasurer a fee as set by resolution of the Board of Trustees. For the final plat, there shall be a filing fee as set by resolution of the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.113 SUBDIVISION TAX; AMOUNT OF TAX; DEPOSIT WITH VILLAGE CLERK/TREASURER.

(A) (1) There is hereby imposed upon every subdivider engaged in the subdivision of any lot, tract, or parcel within the corporate limits of the village an occupation tax in the following amounts:

(a) For subdivisions of residentially zoned property, an occupation tax of \$1,000 for every residential lot within the subdivision as approved by the Village Board; and

(b) For subdivisions of commercially or industrially zoned property, an occupation tax of \$4,000 per acre for every acre or portion thereof contained within the subdivision as approved by the Village Board.

(2) In the event of a mixed-use development containing both residentially zoned and commercially or industrially zoned property, the tax under subsection (a) shall apply to the residential lots so created, with the remainder of the subdivision being subject to the occupation tax imposed under subsection (b).

(B) The occupation tax imposed under division (A) shall not apply to:

(1) Any subdivision of agriculturally zoned property, the use of which will continue as agricultural;

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(2) Any subdivision involving only the adjustment of lot lines between existing lots; and

(3) Any lot created by a subdivision upon which there is existing, at the time of subdivision, an occupied main building that the owner is not intending to demolish. For purposes of a commercial or industrial subdivision, the occupation tax upon such subdivision shall be reduced by the amount of acreage contained within the lot upon which such occupied main building is situated.

(C) (1) Every subdivider shall deposit an amount equal to the anticipated occupation tax with the Village Clerk/Treasurer at the time of submittal of the final plat of any subdivision. If the final plat of the subdivision is not approved by the Village Board, the amount so deposited shall be refunded to the subdivider; otherwise, the tax shall, upon approval of the final plat by the Village Board, be deposited in a separate and special fund to be used only to defray the cost of installation of municipal infrastructure including, but not limited to, sewer improvements, water improvements, roads, and park improvements within the village as determined by the Village Board.

(2) In the event that the number of lots or acres contained within the final plat as approved by the Village Board varies from the number of lots or acres within the final plat at the time of submittal, an appropriate adjustment to the tax shall be made, with either a refund being made to the subdivider of the excess of the amount deposited or an additional payment made by the subdivider, as the case may be. In the event that an additional payment is required from the subdivider, the final plat shall not be filed with the Register of Deeds unless and until such additional amount is paid to the Village Clerk/Treasurer.

(Ord. 2004-10.1, passed 11-15-2004)

AMENDMENTS

§ 151.125 AMENDMENTS.

Any provisions of this chapter from time to time may be amended, supplemented, changed, modified, or repealed by the Village Board according to law; provided, however, that the amendments, supplements, changes, modifications, or repealed provisions shall not become effective until after study and report by the Planning Commission.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

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(B) Whoever being the owner or agent of the owner of the land located within the platting jurisdiction of the village knowingly or with intent to defraud, transfers, sells, agrees to sell, or negotiates to sell the land by reference to, exhibition of, or by other use of a subdivision of the land, before the plat has been approved by the Board of Trustees and recorded in the office of the Register of Deeds of the County, shall forfeit and pay a penalty of not more than \$100 dollars for each lot so transferred, sold, agreed, or negotiated to be sold. The description by metes and bounds in the instrument or transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties.

(Neb. RS 17-426) (Ord. 1997-7.1, § 3, passed 7-14-1997)

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CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS; NONCONFORMING USES

§ 152.001 PURPOSE.

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

(Neb. RS 19-901) (Ord. 1997-7.1, § 2, passed 7-14-1997)

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§ 152.002 JURISDICTION.

The provisions of this chapter shall apply within the corporate limits of the municipality and within the territory beyond the corporate limits as now or hereafter fixed, for a distance of 1 mile in all directions, as established on the 2 maps entitled “The Official Zoning Map of the Village of Bennet, Nebraska,” as the same may be amended by subsequent annexation. The maps and amendments thereto and all explanatory matter thereof accompany and are hereby made a part of this Chapter. The maps shall be on file in the office of the Register of Deeds, and a certified copy thereof shall be furnished to the Village Clerk/Treasurer.

(Neb. RS 17-1001) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.003 INTERPRETATION.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.004 CONFLICT.

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in Chapter 151, Chapter 150, or other official regulations or ordinances, the most restrictive shall apply.

(Neb. RS 19-914) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.005 REGULATIONS APPLICATION; USE.

(A) No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this chapter, or amendments thereto, for the district in which it is located.

(B) No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another building or structure.

(C) No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.

(Neb. RS 19-902, 19-904.01) (Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

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§ 152.006 NONCONFORMING LOTS OF RECORD.

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that the yard dimensions and other requirements of the lot not involving area or width, or both shall conform to the regulations for the district in which the lot is located; that the lot of record was owned at a time when the creation of a lot of the size and width at the location would have been lawful. Nothing herein shall be construed as prohibiting building on a lot of record. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.
(Ord. 2003-10.1, passed 10-20-2003)

§ 152.007 NONCONFORMING STRUCTURES.

(A) *Authority to continue.* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

(B) *Enlargement, repair, alterations.* Any structure described in division (A) above 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, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by special permit unless otherwise approved or as specified in the R-1 District.

(C) *Damage or destruction.* In the event that any structure described in division (A) above is damaged or destroyed, by any means, to the extent of more than 50% of its structural value, the structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in § 152.006 shall not have a side yard of less than 5 feet. When a structure is damaged to the extent of 50% or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within 1 year after the date of the partial destruction and is diligently pursued to completion within one year after issuance of the building permit.

(D) *Moving.* No structure shall be moved in whole or in part for any distance whatever to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

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§ 152.008 NONCONFORMING USES.

(A) *Nonconforming uses of land.* Where at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, the use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by the use at the effective date of adoption or amendment of this chapter.

(3) If any nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located.

(B) *Nonconforming uses of structures.* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout many parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter but no use shall be extended to occupy any land outside the building.

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting the change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which the structure is located and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

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(6) Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.009 REPAIRS AND MAINTENANCE.

(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this chapter shall not be increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.010 SPECIAL PERMIT USES NOT NONCONFORMING USES.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.011 PUBLICATION.

The Village Clerk/Treasurer shall cause the Village of Bennet's zoning regulations to be published in pamphlet form and shall, together with the Chairpersons of the Bennet Planning Commission and Board of Trustees, certify to the adoption of each and include the certification in the published plan or regulations. The Village Clerk/Treasurer shall also cause "The Official Zoning Map of the Village of Bennet, Nebraska," to be duly certified and recorded according to § 152.002 and shall keep a certified copy of the zoning map on file in the Village Office and made available for public inspection during regular office hours.

(Ord. 1997-7.1, § 4, passed 7-14-1997)

Zoning Code

TERMS

§ 152.025 INTERPRETATION.

For the purpose of interpreting this chapter, certain terms are herein defined. Except as defined herein, all other words used in this chapter shall have their customary dictionary meanings. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular. The word “shall” is always mandatory. The word “lot” includes the word “plot” or “parcel.” The word “building” includes the word “structure.” The word “used” or “occupied,” as applied to any land or buildings, shall be construed to include the words “intended, arranged, or designed to be used or occupied.” The word “Maps” or “Zoning Maps,” “Bennet Zoning Maps,” or “Official Zoning Maps of Bennet,” shall mean the “Official Zoning Maps of the Village of Bennet, Nebraska,” and the area comprising its 1 mile extraterritorial zoning jurisdiction. (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.026 DEFINITIONS.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “structure” shall include the word “building” and the word “shall” is mandatory. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 1, passed 10-10-2011)

§ 152.026-1 *ACCESSORY USE OR STRUCTURE.*

A subordinate structure or use that customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio towers not exceeding the height limit of the district and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 2, passed 10-10-2011)

§ 152.026-2 *AGRICULTURE.*

The planting, cultivating, harvesting, and storage of grains, hay, or plants, commonly grown in the vicinity; the raising and feeding of livestock and poultry if incidental or supplemental to the raising of crops. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 3, passed 10-10-2011)

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§ 152.026-3 ALLEY.

A public thoroughfare less than 25 feet in width which affords only a secondary means of access to property abutting thereon.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 4, passed 10-10-2011)

§ 152.026-4 ALTERATION, STRUCTURAL.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 5, passed 10-10-2011)

§ 152.026-5 APARTMENT.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 6, passed 10-10-2011)

§ 152.026-6 APARTMENT HOUSE.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 7, passed 10-10-2011)

§ 152.026-7 AUTOMOBILE; JUNK, INOPERABLE, OR UNLICENSED.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 8, passed 10-10-2011)

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§ 152.026-8 AUTOMOBILE STORAGE YARD.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 9, passed 10-10-2011)

§ 152.026-9 BASEMENT.

A story having part of its height below grade. A **BASEMENT** is counted as a story for height regulations if subdivided and used for dwelling purposes.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 10, passed 10-10-2011)

§ 152.026-10 BED AND BREAKFAST.

A limited commercial activity, conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short-term guest lodging.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 11, passed 10-10-2011)

§ 152.026-11 BLOCK.

A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof. There may be more than 1 numbered block as shown on a plat, falling within a single block as herein defined.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 12, passed 10-10-2011)

§ 152.026-12 BLOCK FRONT.

All of the property on 1 side of a street between 2 intersecting streets.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 13, passed 10-10-2011)

§ 152.026-13 BOARDING HOUSE.

A residential establishment other than a hotel or motel where at least 3 and not more than 10 sleeping and eating accommodations are offered to the public for compensation for more than 1 week.

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(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 14, passed 10-10-2011)

§ 152.026-14 *BUFFER, LANDSCAPE.* See “Screen.”

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 15, passed 10-10-2011)

§ 152.026-15 *BUILDABLE AREA.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 16, passed 10-10-2011)

§ 152.026-16 *BUILDING.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 17, passed 10-10-2011)

§ 152.026-17 *BUILDING, HEIGHT.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 18, passed 10-10-2011)

§ 152.026-18 *DRIVE-IN RESTAURANT.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 19, passed 10-10-2011)

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§ 152.026-19 DWELLING.

Any building or portion thereof which is designed for and used exclusively for residential purposes excluding mobile homes.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 20, passed 10-10-2011)

§ 152.026-20 DWELLING, MULTIPLE.

A building designed for or occupied exclusively by more than 2 families.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 21, passed 10-10-2011)

§ 152.026-21 DWELLING, SINGLE FAMILY.

A building having accommodations for or occupied exclusively by 1 family, excluding mobile homes but including manufactured homes which meet all of the following standards.

(1) The home shall have no less than 900 square feet of floor area.

(2) The home shall have no less than an 18 foot exterior width.

(3) The roof shall be pitched with a minimum vertical rise of 2 and ½ inches for each 12 inches of horizontal run.

(4) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-build, single-family construction.

(5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock.

(6) The home shall be placed on a permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed.

(7) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 22, passed 10-10-2011)

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§ 152.026-22 DWELLING, 2-FAMILY.

A building having 2 dwelling units and also known as a duplex.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 23, passed 10-10-2011)

§ 152.026-23 DWELLING, MULTI-FAMILY.

A building used by or designed for 3 or more dwelling units, each independently containing cooking facilities.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 24, passed 10-10-2011)

§ 152.026-24 DWELLING UNIT.

A building, or portion thereof, providing complete and permanent living facilities for 1 family.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 25, passed 10-10-2011)

§ 152.026-25 FAMILY.

(1) Any number of individuals related by blood, marriage, or adoption, occupying a dwelling unit; or group of unrelated persons occupying a dwelling unit; however, the number of unrelated individuals shall be determined on the basis of 200 square feet of living area per individual.

(2) A family shall under no circumstances be construed as a boarding or rooming house, fraternity or sorority house, club, lodging house, hotel, motel, or commune.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 26, passed 10-10-2011)

§ 152.026-26 FARM.

An area which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of the area for 1 or more of the above uses with the necessary accessory uses for treating or storing the produce. The operation of any accessory uses shall be secondary to that of the normal farming activities and the accessory uses do not include the feeding of garbage or offal to swine or other animals.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 27, passed 10-10-2011)

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§ 152.026-27 FEED LOT, COMMERCIAL.

The land and the necessary accessory uses for the feeding of livestock where the principal business or industry is the feeding of livestock and the feeding is not subordinate to agriculture on the premises of which the feed lot is a part. Where permitted in this chapter, the density of livestock shall be as follows for the pens exclusive of area used for accessory uses:

- (1) Cattle - 300 square feet of area per head;
- (2) Hogs - 40 square feet of area per head;
- (3) Ostriches/Emus - 80 square feet of area per head;
- (4) Sheep - 40 square feet of area per head; and
- (5) Rabbits/similar animals - 20 square feet of area per head.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 28, passed 10-10-2011)

§ 152.026-28 FILLING STATION.

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

- (1) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- (2) Tire servicing and repair, but not recapping or regrooving; and/or

(3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and similar items.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 29, passed 10-10-2011)

§ 152.026-29 FRONTAGE.

All the property on 1 side of a street between 2 intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all property abutting on 1 side between an intersecting street and the dead end of the street.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 30, passed 10-10-2011)

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§ 152.026-30 *GARAGE, PRIVATE.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 31, passed 10-10-2011)

§ 152.026-31 *GARAGE, STORAGE.*

A building or portion thereof designed or used exclusively for housing 4 or more motor-driven vehicles.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 32, passed 10-10-2011)

§ 152.026-32 *GRADE.*

(1) For buildings having walls adjoining 1 street only, the elevation of the sidewalk at the center of the wall adjoining the street.

(2) For buildings having walls adjoining more than 1 street, the average of the elevations of the sidewalk at the center of all walls adjoining the streets.

(3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

(4) Any wall approximately parallel to and not more than 5 feet from a street line is to be considered as adjoining the street.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 33, passed 10-10-2011)

§ 152.026-33 *HOME OCCUPATION.*

A home craft, occupation, or profession which:

(1) Is wholly carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;

(2) Is carried on by a member or members of the family residing in the dwelling unit;

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(3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;

(4) Does not employ more than 1 person outside of the immediate family;

(5) Has no exterior display, no exterior sign except a small, nonilluminated sign of not more than 4 square feet which is attached to the structure, no exterior storage and no other exterior indications of the home occupation or variations from the residential character of the principal building;

(6) Produces no offensive noise, vibration, smoke, dust, odors, heat, glare, or street congestion; and

(7) Sells only retail goods produced on the premise or ones incidental to the occupation.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 34, passed 10-10-2011)

§ 152.026-34 *HOTEL.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 35, passed 10-10-2011)

§ 152.026-35 *INSTITUTION.*

A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 36, passed 10-10-2011)

§ 152.026-36 *JUNK YARD.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2 § 1, passed 2-12-2007, Am. Ord. 2011-8.1, § 37, passed 10-10-2011)

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§ 152.026-37 *KENNEL.*

Any lot or premises on which 4 or more dogs or cats or any combination thereof are kept for the purpose of raising, boarding, or training for show or sale.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 38, passed 10-10-2011)

§ 152.026-38 *LOADING SPACE, OFF-STREET.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 39, passed 10-10-2011)

§ 152.026-39 *LOT.*

A parcel of land defined by metes and bounds, or boundary lines in a recorded deed, fronting on a street. In determining lot area on boundary lines, no part thereof within the limits of the street shall be included.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 40, passed 10-10-2011)

§ 152.026-40 *LOT, CORNER.*

A lot at the junction of and fronting on 2 or more intersecting streets.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 41, passed 10-10-2011)

§ 152.026-41 *LOT, DEPTH.*

The average horizontal distance between front and rear lot lines.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 42, passed 10-10-2011)

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§ 152.026-42 LOT, DOUBLE FRONTAGE.

A lot having a frontage on 2 nonintersecting streets, as distinguished from a corner lot.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 43, passed 10-10-2011)

§ 152.026-43 LOT, INTERIOR.

A lot other than a corner lot.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 44, passed 10-10-2011)

§ 152.026-44 LOT OF RECORD.

A lot which is a part of a plat, a map of which has been recorded in the Office of the County Register of Deeds on or before 7-14-1997; or an irregular tract lot as described by a deed recorded with the County Register of Deeds on or before 7-14-1997.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2003-10.1, passed 10-20-2003; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 45, passed 10-10-2011)

§ 152.026-45 LOT, WIDTH.

The horizontal distance between side lot lines measured at the building line and at right angles to its depth.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 46, passed 10-10-2011)

§ 152.026-46 MANUFACTURED HOME.

A factory-built structure(s) which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 *et seq.*, promulgated by the United States Department of Housing and Urban Development (H.U.D.), or a modular housing unit as defined in Neb. Rev. Stat. § 71-1557 (Reissue 2003) bearing the seal of the Department of Health and Human Service System.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 47, passed 10-10-2011)

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§ 152.026-47 *MOBILE HOME.*

A transportable structure, designed and built to be towed on its own chassis and more than 18 feet wide and 40 feet in length, that is suitable for use as a single family dwelling, with or without a permanent foundation, when connected to the required utilities. A mobile home may be comprised of one or more units that can be telescoped when towed and expanded later for additional capacity, or two or more units separately towable but designed to be joined as one integral unit. The term “Mobile Home” shall not include prefabricated, modular, or precut dwelling units or those manufactured in sections or parts away from the site and transported to the site for assembly.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 48, passed 10-10-2011)

§ 152.026-48 *MOBILE HOME PARK.*

Any area of land upon which 2 or more mobile homes are parked, connected to utilities and used by 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 skirtings or a combination of these devices. A Mobile Home Park includes any premises set apart for supplying to the public space for parking, either free of charge or for revenue purposes, 1 or more mobile homes, connected to utilities and used by 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 part of the equipment or facilities of such Mobile Home Park.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 49, passed 10-10-2011)

§ 152.026-49 *MODULAR HOME.*

Any dwelling whose construction consists entirely of or the major portions of its construction consists of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. Every modular home shall bear a label certifying that it was built in accordance with the standards promulgated pursuant to the Nebraska Uniform Standards for Modular Housing Units Act (Neb. Rev. Stat. § 71-1555 *et seq.*).(Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 50, passed 10-10-2011)

§ 152.026-50 *NONCONFORMING USE.*

A use of buildings or land failing to meet all of the requirements of this chapter applicable to the zoning district in which it is located.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 51 passed 10-10-2011)

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§ 152.026-51 *NURSING HOME.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 52, passed 10-10-2011)

§ 152.026-52 *PARKING LOT.*

An area consisting of 6 or more parking spaces for the parking of motor vehicles, together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for a motor vehicle, provided that there shall be no storage of motor vehicles for the purpose of sale or resale.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 53, passed 10-10-2011)

§ 152.026-53 *PARKING SPACE.*

A developed area, enclosed or unenclosed, having an area of not less than 180 square feet per automobile, together with a driveway connecting the parking space with a street, road, or alley and permitting ingress of that automobile without the necessity of moving another automobile.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 54, passed 10-10-2011)

§ 152.026-54 *SCREEN.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 55, passed 10-10-2011)

§ 152.026-55 *SELF STORAGE UNITS.*

A building containing more than 1 separate unit or space designed to be rented to the general public.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 56, passed 10-10-2011)

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§ 152.026-56 SERVICE BUILDING.

A building housing toilet facilities for men and women, and the other facilities as may be required by this chapter.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 57, passed 10-10-2011)

§ 152.026-57 SIGN.

An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product, or service, including the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of observers. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall be included herein. Unless otherwise permitted, no sign or portion thereof shall extend beyond the property line.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 58, passed 10-10-2011)

§ 152.026-58 STORY.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 59, passed 10-10-2011)

§ 152.026-59 STORY, HALF.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 60, passed 10-10-2011)

§ 152.026-60 STREET.

A right-of-way, dedicated to public use, which affords a primary means of access.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 61, passed 10-10-2011)

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§ 152.026-61 *STREET LINE.*

The right-of-way line of a street.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 62, passed 10-10-2011)

§ 152.026-62 *STRUCTURAL ALTERATION.*

Any addition to or subtraction from any building, including walls, columns, beams, girders, foundations, porches, garages, rooms, doors, and windows.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 63, passed 10-10-2011)

§ 152.026-63 *STRUCTURE.*

Anything constructed or erected, including a building which has permanent foundations on the ground, or anything attached to something having a permanent location on the ground. **STRUCTURE** shall also include any building erected on skids.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 64, passed 10-10-2011)

§ 152.026-64 *SWIMMING POOL.*

Any structure intended for swimming or recreational bathing that contains water over 18 inches deep. This includes in-ground, above-ground, and on-ground **SWIMMING POOLS**, hot tubs, and spas.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 65, passed 10-10-2011)

§ 152.026-65 *TOWNHOUSE.*

One of a group or row of not less than 2 nor more than 6 attached single-family dwellings designed and built as a single structure on adjoining lots facing upon a street, each being separated from the adjoining dwelling or dwellings by a party wall or walls extending from the lowest floor to the roof along the dividing lot line.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 66, passed 10-10-2011)

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§ 152.026-66 *TRAILER.*

Any vehicle without motive power, designated for living quarters and for being drawn by a motor vehicle and is suitable for recreational, vacation, or travel purposes and which is not more than 8 feet in width nor more than 32 feet in length including hitch; provided the length shall not apply if the gross weight does not exceed 4,500 pounds.

(1) ***SUBTRAILER.*** A ***TRAILER*** which does not have a built-in flush toilet and a bath or shower.

(2) ***INDEPENDENT TRAILER.*** A ***TRAILER*** which has a built-in flush toilet and a bath or shower in serviceable condition.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 67, passed 10-10-2011)

§ 152.026-67 *TRAILER COURT.* See “Mobile Home Park.”

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 68, passed 10-10-2011)

§ 152.026-68 *TRAILER SPACE.*

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

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 69, passed 10-10-2011)

§ 152.026-69 *TRANSMITTING TOWER.*

A transmitting, receiving, or repeating tower or broadcasting station used for, or in conjunction with, communication purposes, including, but not limited to, land mobile towers and cellular communications towers; provided, however, an amateur radio tower not exceeding the height limit of the district in which it is located shall not be considered a transmitting tower and shall be permitted as an accessory use if operated by the occupant of the premises.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007, Am. Ord. 2011-8.1, § 70, passed 10-10-2011)

§ 152.026-70 *VARIANCE.*

A relaxation of the terms of Chapter 152 where the variance will not be contrary to the public interest and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of these zoning regulations, or by reason of exceptional

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topographic conditions or other extraordinary and exceptional situation or conditions of the piece of property, the strict application of any enacted regulation under this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of the property, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 71, passed 10-10-2011)

§ 152.026-71 *YARD.*

(1) An open space, unoccupied and unobstructed by a structure of any sort from the ground upward and measured as the minimum horizontal distance between the lot line and the main building.

(2) On corner lots, set back shall be based on the interior lot lines being treated as side yards and the lines abutting the streets being treated as front yards. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 72, passed 10-10-2011)

§ 152.026-72 *YARD, FRONT.*

A yard extending across the front of a lot between the side yard lines and measured between the street line and the main building or any projection thereof, other than the ordinary projection of steps, terraces, uncovered porches or entrance ways. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 73, passed 10-10-2011)

§ 152.026-73 *YARD, REAR.*

A yard extending across the rear of the lot between the side lot line and measured between the rear lot line and the rear of the main building or any projections other than steps, uncovered porches, or any entrance ways. On all lots, the **REAR YARD** shall be at the opposite end of the lot from the front yard. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 74, passed 10-10-2011)

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§ 152.026-74 YARD, SIDE.

An open, unoccupied space between the closest portion of the building to the side line and the side line of the lot. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 75, passed 10-10-2011)

§ 152.026-75 ZONING ADMINISTRATOR.

The Village Clerk/Treasurer of the Village.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 76, passed 10-10-2011)

DISTRICTS

§ 152.040 DISTRICTS; USES.

For the purpose of this chapter, the municipality is hereby divided into 10 districts, designated as follows:

- (A) Agricultural District (A-1);
- (B) Rural Residential District (A-2);
- (C) Single Family Residential District (R-1);
- (D) Medium Density Residential District (R-2);
- (E) Maximum Density Residential District (R-3);
- (F) Local Business District (B-1);
- (G) Central Business District (B-2);
- (H) Light Industrial District (I-1);
- (I) Heavy Industrial District (I-2); and
- (J) Flood Hazard District (F).

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 2, passed 2-12-2007)

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§ 152.041 DISTRICTS; BOUNDARIES.

The boundaries of the districts are hereby established as shown on the maps entitled “Official Zoning Map of the Village of Bennet, Nebraska.” The maps and all explanatory matter thereon accompany and are hereby made a part of this chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Chairperson of the Board, and attested by the Village Clerk/Treasurer. No changes shall be made on the Zoning District Map except as may be required by amendments to this chapter. The changes shall be promptly indicated on the Zoning District Map with the ordinance number, nature of change, and date of change noted on the map. (Neb. RS 19-904) (Ord. 1997-7.1, § 2, passed 7-14-1997)

[New maps are being adopted herewith.] (Am. Ord. 2007-1.2, § 3, passed 2-12-2007)

§ 152.042 DISTRICT BOUNDARIES; INTERPRETATION.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

(A) Where district boundaries are indicated as approximately following the center lines of streets, highways, streams or rivers, street or railroad right-of-way lines or the lines extended, the lines shall be construed to be the boundaries.

(B) Where district boundaries are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundaries.

(C) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, railroads, or reservoirs, the district boundaries shall be construed as being parallel thereto and at the distance therefrom as indicated on the zoning maps. If no distance is given, the dimension shall be determined by use of the scale shown on the zoning maps.

(D) Where a district boundary line divides a lot in single ownership, the district boundary lines shall be determined by the use of the scale or dimensions shown on the zoning maps. (Neb. RS 19-904) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.043 ZONING USE CHART.

The Zoning Use Chart provides a quick reference for permitted uses for Districts A-1, A-2, R-1, R-2, R-3, B-1, B-2, and I-1. Uses for District I-2 are given in § 152.051. Permitted uses are indicated by “X” in the appropriate column. Permitted special uses are indicated by “SP” and require the issuance of a special use permit (See §§ 152.090 *et seq.*). Uses designated by “RE” have restrictions which are detailed in the specific district section. Additional uses allowed in a district are detailed in the specific district section.

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<i>Permitted Use</i>	<i>A-1</i>	<i>A-2</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>B-1</i>	<i>B-2</i>	<i>I-1</i>
Single family dwelling	X	X	X	X	X	-	-	-
2-family dwelling	SP	SP	SP	X	X			
Multi-family dwelling					SP		SP	
Townhouses				SP	SP			
Antique sales						X	X	
Automobile/equipment repair						SP	X	X
Barber shop and beauty parlor						X	X	
Bed and breakfast	SP	SP	SP	SP	SP			
Boarding or lodging house					SP			
Bowling alley						RE	RE	
Business office						X	X	X
Business or commercial school; dance or music academy						X	X	
Carting, express, or storage yard								X
Cemetery or mausoleum	SP	SP	SP	SP	SP	SP	SP	SP
Child care	RE		RE	RE	RE	X	X	
Church, school, or library	X	X	X	X	X	X	X	
Clinic						X	X	
College	SP						X	
Commercial greenhouse or nursery	SP	SP				SP	SP	SP
Contractor's yard								RE
Drive-in restaurant						RE	RE	
Farm implement dealership	SP							X
Filling station	SP					X	X	X
Frozen food locker								X
Golf course	SP	SP	SP					
Grain elevator								SP
Landing field or strip for aircraft	SP	SP						
Laundry and dry cleaning establishment						X	X	X
Livestock sales	SP	SP						
Lumber yard								X
Mobile Home Park					SP			
Motel or hotel						X	X	
Nursing home	X		X	X	X			
Printing shop						X	X	
Private club (not operated for profit)	X	X				SP	X	
Professional office						X	X	X
Public building			X	X	X	X	X	

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<i>Permitted Use</i>	<i>A-1</i>	<i>A-2</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>B-1</i>	<i>B-2</i>	<i>I-1</i>
Public park, playground, or community center	X	X	X	X	X	X	X	
Retail stores or personal services						X	X	
Riding stable	SP	SP						
Self-storage units							X	X
Small wind energy systems	SP	SP						SP
Transmitting tower	SP	SP	SP	SP	SP	SP	SP	SP
Undertaking establishment or mortuary						X	X	
Veterinarian	X	X					SP	X

(Ord. 2003-9.1, passed 9-17-2003; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2005-8.1, passed 8-15-2005; Am. Ord. 2007-1.2, § 4, passed 2-12-2007; Am Ord. 2011-8.1, § 77, passed 10-10-2011)

§ 152.044 AGRICULTURAL DISTRICT (A-1).

INTENT: This district is intended for general agricultural purposes within one mile of the village, specifically in the rural area located beyond the corporate limits to the northwest, north, and northeast. This agricultural area is intended to support the identified Future Growth areas of the village identified in the Future Land Use Plan of Bennet (See Illustrations 5.4 and 5.5 of the Comprehensive Plan).

(A) *Permitted principal uses.* In the (A-1) Agricultural District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes:

- (1) Agriculture or truck gardening, provided that any building for the shelter of animals shall be at least 50 feet from all street and lot lines; and/or
- (2) Educational, religious, or philanthropic institutions, but not including penal or mental institutions, located on more than 10 acres.

(B) *Permitted special uses.* Special use permits may be obtained for the uses indicated in § 152.043 or the following additional purposes: removal of gravel, top soil, or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole.

(C) *Permitted accessory uses.*

- (1) Accessory buildings and uses customarily incidental to the permitted uses; provided, any accessory building is not constructed prior to beginning construction of the main building;
- (2) Home occupations, as defined in § 152.026;

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- (3) Child care, for not more than 12 children;
- (4) Parking for permitted uses as required by this chapter;
- (5) Signs:

(a) On-premise signs, including home occupations, bulletin boards, and signs not exceeding 60 square feet in area and not exceeding 45 feet in height, appertaining to the lease, hire, or sale of a building or premises or to any material that is mined, manufactured, grown, or treated within the district shall be allowed, provided, however, that the signs shall be located upon or immediately adjacent to the building or in the area in which the materials are treated, processed or stored; and/or

(b) Signs with an area no greater than 1 square foot for each 10 lineal feet of highway frontage, and provided however, that:

1. No sign may be permitted that interferes with, imitates, or resembles any official traffic sign, signal, or device;

2. No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent, or moving light or lights or any animated or moving parts; and

3. No sign may be permitted to be erected upon or maintained or painted upon trees or rocks.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

- (1) Minimum lot size shall be 10 acres with a minimum width of 250 feet;
- (2) Minimum yard requirements;

(a) Front yard depth - not less than 50 feet from the front property line or 100 feet from the center line of a public road, whichever is greater;

(b) Side yard depth - not less than 20 feet; and

(c) Rear yard depth - not less than 50 feet.

(3) The maximum height of structure in this district shall be 35 feet or 2 and ½ stories.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 5, passed 2-12-2007) Penalty, See § 152.999

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§ 152.044.5 RURAL RESIDENTIAL DISTRICT (A-2).

INTENT: This district is intended to allow for smaller minimum lot sizes in rural areas of the One-mile Planning Jurisdiction of the Village of Bennet, when not located within the designated growth areas of the Future Land Use Plan. The areas located to the west, southwest, south or southeast of the Omaha Public Power District Railroad corridor are the general areas designed for this District. This area is also impacted by the flood plain of the Little Nemaha River. *(When these two factors are combined, the likelihood of the village ever supplying Municipal water and sanitary sewer service is very slight, due to the high cost of boring under the railroad, and the need for lift stations and booster pumps to be able to service the area.)*

(A) *Permitted Principal Uses.* In the (A-2) Rural Residential District, buildings, structures, and land shall be used only for the purposes listed in Section 152.043 or the following additional purposes:

(1) Agriculture or truck gardening, provided that any building for the shelter of animals shall be at least 50 feet from all street and lot lines.

(B) *Permitted Special Uses.* Special Use Permits may be obtained for the uses indicated in § 152.043 or the following additional purposes:

(1) Removal of gravel, top soil, or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole.

(C) *Permitted accessory uses.*

(1) Accessory buildings and uses customarily incidental to the permitted uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Home occupations, as defined in § 152.026;

(3) Child care, for not more than 12 children;

(4) Parking for permitted uses as required by this chapter;

(5) Signs:

(a) On-premise signs, including home occupations, bulletin boards, and signs not exceeding 60 square feet in area and not exceeding 45 feet in height, appertaining to the lease, hire or sale of a building or premises or to any material that is mined, manufactured, grown, or treated within the district shall be allowed, provided however, that the signs shall be located upon or immediately adjacent to the building or in the area in which the materials are treated, processed or

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stored; and/or adjacent to the building or in the area in which the materials are treated, processed or stored; and/or

(b) Signs with an area no greater than 1 square foot for each 10 lineal feet of highway frontage, and provided however, that:

1. No sign may be permitted that interferes with, imitates, or resembles any official traffic sign, signal, or device;

2. No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent, or moving light or lights or any animated or moving parts; and

3. No sign may be permitted to be erected upon or maintained or painted upon trees or rocks.

(D) *Area, yard, and height.* Area, yard and height requirements for this district shall be:

(1) Minimum lot size shall be 3 acres with a minimum width of 250 feet.

(2) Minimum yard requirements:

(a) Front yard depth-not less than 50 feet from the front property line or 100 feet from the center line of a public road, whichever is greater;

(b) Side yard depth-not less than 20 feet; and

(c) Rear yard depth-not less than 50 feet.

(3) Maximum height of structure in this district shall be 35 feet or 2 and ½ stories.
(Ord. 2007-1.2, § 6, passed 2-12-2007)

§ 152.045 SINGLE FAMILY RESIDENTIAL DISTRICT (R-1).

INTENT: This district is intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures.

(A) *Permitted principal uses.* In the (R-1) Single Family Residential District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes: educational, religious, or philanthropic institutions, but not including penal or mental institutions;

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043.

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(C) *Permitted accessory uses.*

(1) Accessory building or use customarily incidental to the above uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Child care, for not more than 12 children;

(3) Home occupation, as defined in § 152.026;

(4) Parking for permitted uses as required in § 152.073;

(5) On-premise signs, including public building bulletin boards and temporary signs, not exceeding 10 square feet in area, pertaining to the lease, hire, or sale of a building or premises, and church bulletin boards not exceeding 20 square feet in area shall be allowed. Home occupation signs shall be allowed provided there is used no sign other than a small, nonilluminated sign of not more than 4 square feet which is attached to the structure; and/or

(6) Animals, as permitted by village ordinance and subject to the permit process of that ordinance.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) Minimum lot size shall be 10,000 square feet with a minimum width of 80 feet;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 30 feet;

(b) Side yard depth - not less than 10 feet;

(c) Rear yard depth - not less than 30 feet; and

(d) Accessory buildings up to 600 square feet may have a side yard of not less than 6 feet and a rear yard of not less than 6 feet, provided they are a minimum of 10 feet from the principal structure.

(3) The maximum height of structure in this district shall be 35 feet or 2 and ½ stories;

(4) Maximum lot coverage - 75% of the total lot area is the maximum permitted coverage by buildings, structures, and surface paving.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 7, passed 2-12-2007) Penalty, See § 152.999

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§ 152.046 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2).

INTENT: This district is intended for single and 2-family residential uses to provide for medium density development areas generally in close proximity to public, parks and recreational, and commercial uses. R-2 Districts should generally be located along “primary streets” (arterial or collector streets) throughout the community to lessen their impact upon single family districts beyond, or between R-1 and R-3 Residential Districts.

(A) *Permitted principal uses.* In the (R-2) Medium Density Residential District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes: educational, religious, or philanthropic institutions, but not including penal or mental institutions.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043.

(C) *Permitted accessory uses.*

(1) Accessory building or use customarily incidental to the above uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Child care, for not more than 12 children;

(3) Home occupation, as defined in § 152.026;

(4) Parking for permitted uses as required in § 152.073;

(5) On-premise signs, including public building bulletin boards and temporary signs, not exceeding 10 square feet in area, pertaining to the lease, hire, or sale of a building or premises, and church bulletin boards not exceeding 20 square feet in area shall be allowed. Home occupation signs shall be allowed provided there is used no sign other than a small, nonilluminated sign of not more than 4 square feet which is attached to the structure; and/or

(6) Animals, as permitted by village ordinance and subject to the permit process of that ordinance.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) Minimum lot size shall be 7,400 square feet with a minimum width of 70 feet;

(2) Attached dwelling or 2-family - there shall be a minimum lot area of 12,000 square feet;

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(3) Minimum lot size for townhouses shall be 3,700 square feet with a minimum lot width of 35 feet except for those townhouse lots for which a side yard must be provided in which case the minimum lot size shall be 5,000 square feet with a minimum lot width of 44 feet;

(4) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet;

(b) Side yard depth - not less than 9 feet, except that the side yard for a townhouse shall be 0 feet on the party wall side;

(c) Rear yard depth - not less than 25 feet; and

(d) Accessory buildings up to 600 square feet may have a side yard of not less than 6 feet and a rear yard of not less than 6 feet provided they are a minimum of 10 feet from the principal structure.

(5) The maximum height of a structure in this district shall be 35 feet or 2 and ½ stories; and

(6) Maximum lot coverage - 75% of the total lot area is the maximum permitted coverage by buildings, structures, and surface paving.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-8.1, passed 8-15-2005; Am. Ord. 2007-1.2, § 8, passed 2-12-07) Penalty, See § 152.999

§ 152.047 MAXIMUM DENSITY RESIDENTIAL DISTRICT (R-3).

INTENT: It is the intent of this district to provide for single and 2-family residential uses.

(A) *Permitted principal uses.* In the (R-3) Multiple Family Residential District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes: educational, religious, or philanthropic institutions, but not including penal or mental institutions.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043.

(C) *Permitted accessory uses.*

(1) Accessory building or use customarily incidental to the above uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Child care, for not more than 12 children;

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(3) Home occupation, as defined in § 152.026;

(4) Parking for permitted uses as required in § 152.073;

(5) On-premise signs, including public building bulletin boards and temporary signs, not exceeding 10 square feet in area, pertaining to the lease, hire, or sale of a building or premises, and church bulletin boards not exceeding 20 square feet in area shall be allowed. Home occupation signs shall be allowed provided there is used no sign other than a small, nonilluminated sign of not more than 4 square feet which is attached to the structure; and/or

(6) Animals, as permitted by village ordinance and subject to the permit process of that ordinance.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) Minimum lot size shall be 6,000 square feet with a minimum width of 60 feet;

(2) Attached dwelling, 2-family, or multiple - there shall be an additional minimum lot area of 3,000 square feet per dwelling unit. Where a private well or septic tank is provided, a minimum of 20,000 square feet per family shall be provided;

(3) Minimum lot size for townhouses shall be 3,000 square feet with a minimum lot width of 30 feet, except for those townhouse lots for which a side yard must be provided in which case the minimum lot size shall be 3,800 square feet with a minimum lot width of 38 feet.

(4) Minimum yard requirements.

(a) Front yard depth - not less than 20 feet;

(b) Side yard depth - not less than 8 feet, except that the side yard for a townhouse shall be 0 feet on the party wall side;

(c) Rear yard depth - not less than 20 feet; and

(d) Accessory buildings up to 600 square feet may have a side yard of not less than 6 feet and a rear yard of not less than 5 feet provided they are a minimum of 10 feet from the principal structure.

(5) The maximum height of a structure in this district shall be 35 feet or 2 and ½ stories; and

(6) Maximum lot coverage - 75% of the total lot area is the maximum permitted coverage by buildings, structures, and surface paving.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 9, passed 2-12-2007) Penalty, See § 152.999

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§ 152.048 LOCAL BUSINESS DISTRICT (B-1).

INTENT: The B-1 Local Business District is intended for the purpose of servicing highway travelers and providing a range of limited commercial services to Bennet residents. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

(A) *Permitted principal uses.* In the (B-1) Local Business District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes:

(1) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, electrical repair or similar retail sales, services, or repair shops;

(2) Automobile display or salesroom when located at least 50 feet from any (R) District;

(3) Educational, religious, or philanthropic institutions, but not including penal or mental institutions; and/or

(4) When located at least 100 feet away from any (R) District Boundary:

(a) Bowling alley;

(b) Drive-in restaurant or similar establishment; and/or

(c) Other similar place of entertainment or amusement.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043 or the following additional purposes: manufacturing that produces no obnoxious or offensive noise, dust, glare, or odors.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

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1. The minimum distance to a Residential District is 100 feet;
2. The maximum height is 25 feet;
3. The minimum distance to an intersection is 25 feet; and
4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) There shall be no minimum lot size and no minimum width for commercial purposes;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet; provided that required parking may be permitted in the front yard;

(b) Side yard depth - none, except along the side of a lot abutting a lot in an (R) District in which case 10 feet shall be provided; and

(c) Rear yard depth - none, except for a lot abutting an (R) District in which case 25 feet shall be provided.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stores; and

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 10, passed 2-12-2007; Am. Ord. 2011-5.1, passed 6-13-2011) Penalty, See § 152.999

§ 152.049 CENTRAL BUSINESS DISTRICT (B-2).

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

(A) *Permitted principal uses.* In the (B-2) Central Business District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes:

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(1) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, electrical repair or similar retail sales, services, or repair shops;

(2) Automobile display or salesroom when located at least 50 feet from any (R) District;

(3) Automobile repair where all inoperable vehicles are kept in a screened area or enclosed building;

(4) Educational, religious, or philanthropic institutions, but not including penal or mental institutions;

(5) Public garage, when located at least 50 feet from any (R) District boundary; and/or

(6) When located at least 100 feet away from any (R) District Boundary:

(a) Bowling alley;

(b) Drive-in restaurant or similar establishment; and/or

(c) Other similar place of entertainment or amusement.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043 or the following additional purposes: manufacturing which produces no obnoxious or offensive noise, dust, glare, or odors.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

1. The minimum distance to a Residential district is 100 feet;

2. The maximum height is 25 feet;

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- 3. The minimum distance to an intersection is 25 feet; and
- 4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) There shall be no minimum lot size and no minimum width for commercial purposes;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 5 feet;

(b) Side yard depth - none, except along the side of a lot abutting a lot in an (R) District in which case 10 feet shall be provided;

(c) Rear yard depth - none, except for a lot abutting an (R) District in which case 25 feet shall be provided.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories; and

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 11, passed 2-12-2007) Penalty, See § 152.999

§ 152.050 LIGHT INDUSTRIAL DISTRICT (I-1).

(A) *Permitted principal uses.* In the (I-1) Light Industrial District, buildings, structures, and land shall be used only for purposes listed in § 152.043 or the following purposes:

(1) Automobile repair where all inoperable vehicles are kept in a screened area or enclosed building;

(2) Automobile or trailer display or salesroom, or when located at least 50 feet from any (R) District, an automobile or trailer sales storage lot;

(3) Automobile storage yard, where all vehicles are kept in an enclosed and screened area;

(4) Contractor yard, when located inside a building or when wholly enclosed by a well-maintained wooden fence not less than 8 feet in height and in which the openings or spaces are not more than ½ inch wide;

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(5) Public garage, when located at least 50 feet from any (R) District;

(6) Any other business, industry, or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke or noise is emitted and not more than 10% of the lot or tract is used for the open storage of products, materials, or equipment.

(B) *Permitted special uses.* Special use permits may be obtained for the uses indicated in § 152.043 or the following additional purposes: any use emitting or likely to emit substantial amounts of dust, odor, gas, smoke, or noise, where reasonable measures are employed and approved to protect adjacent property and prevent objectionable, deteriorating, or offensive conditions.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

1. The minimum distance to a Residential district is 100 feet;
2. The maximum height is 25 feet;
3. The minimum distance to an intersection is 25 feet; and
4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) The minimum lot size shall be 10,000 square feet;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet;

(b) Side yard depth - none, except along the side of a lot abutting a lot in any (R) District in which case 15 feet shall be provided; and

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(c) Rear yard depth - not less than 15 feet.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories;
and/or

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 12, passed 2-12-2007) Penalty, See § 152.999

§ 152.051 HEAVY INDUSTRIAL DISTRICT (I-2).

(A) *Permitted primary uses.* In the (I-2) Heavy Industrial District, buildings, structures, and land shall be used only for the following purposes:

(1) Contractors yard;

(2) Grain elevator;

(3) Any business, industry, or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke, or noise is emitted and not more than 10% of the lot or tract is used for the open storage of products, materials, or equipment.

(B) *Permitted special uses.* The Board of Trustees may authorize the following special uses after a review and report of the Planning Commission and may impose the reasonable requirements as to the landscaping, screening, and other features of the development as deemed necessary to protect adjacent property and prevent objectionable, deteriorating, or offensive conditions:

(1) Livestock auction or sales barn;

(2) Removal of gravel, top soil, or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole;

(3) Any business, industry, or manufacturing use emitting or likely to emit substantial amounts of dust, odor, gas, smoke, or noise or utilizing more than 10% of the lot or tract for open storage of products, materials, or equipment;

(4) Transmitting tower;

(5) Any similar use that would be hazardous to the public health, safety, or welfare;

(6) Retail bulk storage of gas and propane;

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(7) Auto junk yard or wrecking yard only when located inside a building or when wholly enclosed by a well maintained wooden fence not less than 8 feet in height and in which the openings or spaces are not more than ½ inch wide.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

1. The minimum distance to a Residential district is 100 feet;
2. The maximum height is 25 feet;
3. The minimum distance to an intersection is 25 feet; and
4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) The minimum lot size shall be 10,000 square feet;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet;

(b) Side yard depth - none, except along the side of a lot abutting a lot in an (R) District in which case 25 feet shall be provided; and

(c) Rear yard depth - not less than 15, except for a lot abutting an (R) District in which case 25 feet shall be provided.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories; and/or

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(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am Ord. 2007-1.2, § 13, passed 2-12-2007) Penalty, See § 152.999

§ 152.052 HIGHWAY OVERLAY DISTRICT (HO) (Repealed Ord. 2007-1.2, § 14, passed 2-12-2007.)

§ 152.053 FLOOD HAZARD DISTRICT (F).

(A) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare and to minimize losses due to flood hazards by applying the provisions of this section to:

(1) Restrict or prohibit uses which are dangerous to health, safety, or property in time of flooding or cause undue increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including public facilities which serve the uses, be provided with flood protection at the time of initial construction;

(3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard; and

(4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

(B) *Local Administrator responsibilities.* The Zoning Administrator is authorized and directed to enforce all the provisions of this section and all other ordinances of the Village of Bennet now in force or hereafter adopted, related to zoning, subdivision, or building codes. During temporary absence or disability of the Zoning Administrator, the Board of Trustees of the Village shall designate an acting administrator.

(C) *Methods used to analyze flood hazards.* This section uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:

(1) Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of the flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this section. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this section. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any 1 year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated April 16, 2013, as amended, and any future revisions thereto;

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(2) Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood;

(3) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point;

(4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile; and

(5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

(D) *Applicability; designation of current F.I.R.M.* This section shall apply to all lands within the jurisdiction of the Village of Bennet identified on the flood insurance rate map (F.I.R.M.) dated April 16, 2013, and any revisions thereto, as numbered and unnumbered A zones (including AE, AO, and AH zones) and within the floodway and flood fringe as identified in the Flood Insurance Study and accompanying maps. In all areas covered by this section, no development shall be permitted except upon issuance of a flood plain permit to develop and granted by the Board of Trustees of the Village of Bennet or its duly designated representative under the safeguards and restrictions as the Board of Trustees of the Village of Bennet or its designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically set forth in this section.

(E) *Permits required.* No person, firm, or corporation shall initiate any flood plain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this section.

(1) Within special flood hazard areas on the official map, separate flood plain development permits are required for all new construction, substantial improvements and other developments, including the replacement of manufactured homes.

(2) To obtain a flood plain development permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every application shall:

(a) Identify and describe the development to be covered by the flood plain development permit for which application is made;

(b) Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or development;

(c) Indicate the use or occupancy for which the proposed development is intended;

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(d) Be accompanied by plans and specifications for proposed construction;

(e) Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate the authority;

(f) Within designated flood plain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed nonresidential structures, the elevation to which it shall be floodproofed. Documentation or certification of the elevations will be maintained by the Zoning Administrator; and

(g) Give other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of nonresidential floodproofing when a minus 1 foot penalty is assessed at the time of rating the structure for the policy premium.)

(F) *Development permit application review.* The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal or state law.

(G) *Application review requirements.* The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in division (T) below) will:

(1) Obtain, review, and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from federal, state, or other sources, until the other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards are met.

(a) Until a floodway has been designated, no development or substantial improvement may be permitted within the identified flood plain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than 1 foot at any location.

(b) New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least 1 foot above the base flood elevation.

(c) New construction or substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated at least 1 foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or

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architect shall certify that the standards of this subsection are satisfied. The certification shall be provided to the Zoning Administrator.

(d) Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than 1 foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) Require the use of construction materials that are resistant to flood damage;

(3) Require the use of construction methods and practices that will minimize flood damage;

(4) Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(5) New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with state laws, local building codes, and F.E.M.A. guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(a) Over-the-top ties be provided at each of the 4 corners of the manufactured home with 2 additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring 1 additional tie per side;

(b) Frame ties be provided at each corner of the home with 5 additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring 4 additional ties per side;

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(d) Any additions to manufactured homes be similarly anchored.

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(7) Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:

- (a) Outside of a manufactured home park or subdivision;
- (b) In a new manufactured home park or subdivision;
- (c) In an expansion to an existing manufactured home park or subdivision; or
- (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated at least 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (G)(6) above.

(8) Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of division (G)(7) above be elevated so that either:

- (a) The lowest floor of the manufactured home is at least 1 foot above the base flood elevation; or
- (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (G)(6) above.

(9) Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the permit requirements and the elevation and anchoring requirements for "manufactures homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(H) *Standards for areas within the floodway.* New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development will not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards set forth in divisions (E) and (G) above. In Zone A unnumbered, any flood elevation and floodway data available through federal, state, or other sources shall be reviewed and reasonably utilized in meeting the standards of this section. Any proposal for development (including proposals for manufactured home parks and subdivisions) of 5 acres or 50 lots, whichever is lesser, shall include within the proposals the base flood elevation.

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(I) *Subdivision applications.* The Board of Trustees of the Village shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivision) and shall make findings of fact and assure that:

(1) All the proposed developments are consistent with the need to minimize flood damage;

(2) Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than 5 acres or 50 lots, whichever is lesser, include within the proposals regulatory flood elevation data in special flood hazard areas;

(3) Adequate drainage shall be shown and necessary easements provided so as to reduce exposure to flood hazards; and

(4) All public utilities and facilities are located so as to minimize or eliminate flood damage.

(J) *Water and sewage systems.* New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

(K) *Storage of material and equipment.* The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(L) *Flood-carrying capacity within any watercourse.* The Board of Trustees of the Village will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The village will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Natural Resources Commission) prior to any alternation or relocation of a watercourse, and submit copies of the notifications to the Federal Emergency Management Agency. Moreover, the village will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

(M) *Variance procedures.*

(1) The Board of Adjustment as established by the Village Board shall hear and decide appeals and requests for variances from the requirements of this section.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this section.

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(3) Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal the decision to the district court as provided in Section 19912, R.R.S. 1943 (for municipalities).

(4) In passing upon the applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this section, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of proposed facility and its contents to flood damage and the effect of the damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(i) The safety of access to the property in time of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) *Conditions for variances.*

(a) Generally variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing divisions (M)(5)(b) through

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(M)(5)(e) below have been fully considered. As the lot size increases beyond the ½ acre, the technical justification for issuing the variance increases.

(b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(e) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(N) *Nonconforming use.*

(1) A structure or the use of a structure or premises which was lawful before the passage or amendment of this section, but which is not in conformity with the provisions of this section, may be continued subject to the following conditions.

(a) If the use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this section. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.

(b) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

(2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this section. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of the structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(O) *Abrogation and greater restrictions.* It is not intended by this section to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this

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section imposes greater restrictions, the provisions of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

(P) *Interpretation.* In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the Board of Trustees and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

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

(R) *Appeal.* Where a request for a permit to develop or a variance is denied by the Zoning Administrator, the applicant may apply for the permit or variance directly to the Board of Adjustment.

(S) *Conflicting ordinances.* This section shall take precedence over conflicting ordinances or part of ordinances. The Board of Trustees of the Village of Bennet may, from time to time, amend this section to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this section are in compliance with the National Flood Insurance Program Regulations as published in 44 C.F.R. and the 1983 Nebraska Floodplain Management Act.

(T) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEAL. A request for a review of the Zoning Administrator's interpretation of any provision of this section or a request for a variance.

BASE FLOOD. The flood having 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISIONS. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

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EXPANSION OF EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land area from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The usual and rapid accumulation of run-off of surface waters from any source.

FLOOD FRINGE. The area of the flood plain, outside of the floodway, that on the average is likely to be flood once every 100 years (i.e., that has a 1 % chance of flood occurrence in any 1 year).

FLOOD INSURANCE RATE MAP (F.I.R.M.). An official map of a community, on which the Administrator has delineated both the special flood hazards areas and the risk premium applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary, floodway map, and the water surface elevation of the base flood.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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

HISTORIC STRUCTURE. Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

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- (d) Individually listed on a local inventory of historic places in communities with historic preservations programs that have been certified either;
1. By an approved state program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this section.

MANUFACTURED HOME.

(a) A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.

(b) The term ***MANUFACTURED HOME*** does not include a “recreational vehicle” but may include a mobile home as elsewhere defined in these regulations.

NEW CONSTRUCTION. For flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of the flood plain management regulation adopted by a community and includes any subsequent improvements to the structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by a community.

100-YEAR FLOOD. The condition of flooding having 1% chance of annual occurrence.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

RECREATIONAL VEHICLE. A vehicle which is:

- (a) Built on a single chassis;

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- (b) Four hundred square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION. The water surface elevation of the 100-year flood.

SPECIAL FLOOD HAZARD AREA. The land in the flood plain within a community subject to 1% or greater chance of flooding in any given year.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. L. No. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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(b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

VARIANCE. A grant of relief to a person from the terms of a flood plain management ordinance.

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.
(Ord. 2003-5.1, passed 5-12-2003; Am. Ord. 2010-12.1, passed 12-13-2010; Am. Ord. 2012-12.2, passed 2-11-2013) Penalty, See § 152.999

APPLICATION OF REGULATIONS

§ 152.065 MOBILE HOME PARKS.

(A) Mobile Home Parks shall only be allowed in the R-3 District by Special Permit and under the following conditions:

(1) Individual mobile home lots shall have an area of not less than 4,000 square feet per single wide mobile home and 6,000 square feet per double wide mobile home, and the total number of lots per gross acre shall not exceed 6.

(2) Mobile homes shall be situated on individual lots so there will be a minimum of 15 feet between mobile homes and that each mobile home will be set back at least 15 feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than 10 feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar Mobile Home Park needs.

(3) The Mobile Home Park shall have direct access to a public street or highway by a right-of-way at least 50 feet in width and a minimum length of 100 feet to permit easy entrance and exit from the Mobile Home Park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum clear width of 20 feet paved with a suitable dustless material.

(4) Walks and Lighting. Walkways not less than 4 feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard surfaced and lighted at night with a minimum illumination of 25 watt lamps spaced at intervals of not more than 100 feet.

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(5) Off-Street Parking. Two off-street parking spaces for each mobile home space shall be provided at each mobile home space or in group parking. Each off-street parking space shall be at least 300 square feet.

(6) The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.

The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" minimum) placed on solid uniform soil with at least 2 standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4 inch concrete cap covering the 2 concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such blocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than 10 feet apart, and not more than 5 feet from the ends of the unit.

(7) The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-lace concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designated to resist the action of frost in the same manner as the foundation system.

(8) The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.

(B) Any Mobile Home Park may be designed to permit the sale of the individual mobile home lots within said park. A Mobile Home Park in which the individual mobile home lots will be offered for sale shall meet all of the following requirements:

(1) The individual mobile home lots shall meet the minimum lot requirements, minimum yard requirements, maximum lot coverage, and maximum height requirements of the R-3 District single family dwellings.

(2) Each mobile home lot shall be individually serviced with all utilities and shall be individually metered.

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(3) The developer of such Mobile Home Park shall be required to apply for and receive approval of a preliminary and final plat of the Mobile Home Park in accordance with Chapter 151 of this Code.

(4) The developer shall, prior to approval of the plat, submit to the village all legal documents necessary for the creation of an association having the purpose of maintaining the common areas within the Mobile Home Park and paying all expenses, taxes and costs related thereto. Covenants shall be placed on the property by the developer and owners thereof requiring that all property owners within the Mobile Home Park be members of the association and permitting the lots owned within the Mobile Home Park to be assessed for all costs incurred in performing such obligations. No subdivision permit or special use permit may be issued without the approval of these documents by the Village Board.

(Neb. RS 19-907) (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 15, passed 2-12-2007) Penalty, See § 152.999

§ 152.066 LOT OF RECORD.

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

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.067 SETBACKS.

Where 50% or more of any block front is improved with permanent buildings, no part of any new building shall project beyond that front line of the 2 nearest permanent buildings, except that no building shall be required to provide a front yard greater than 50 feet.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.068 SIDE YARD.

The required side yard shall be maintained on each side of a dwelling, but the side yard may be reduced to 10% of the lot width on lots of less than 60 feet in width; provided, however, that no side yard shall be less than 6 feet; or no new dwelling shall be closer than 12 feet to any existing dwelling.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

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§ 152.069 REAR YARD DEPTH.

The required rear yard may be reduced to 20% of the depth of the lot. An accessory building may be built within a required rear yard when located at least 6 feet from the rear lot line and when occupying not more than 30% of the area of the required rear yard.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.070 PROJECTIONS.

Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except:

(A) The ordinary projection of sills, eaves, belt courses, cornices, and ornamental features may be permitted, but not to exceed more than 3 feet into any required yard; and

(B) An open, uncovered porch or paved patio may extend not more than 10 feet into any required front or rear yard and not more than 3 feet into any required side yard.

(C) Fireproof outside stairways and egress windows may project not more than 3 feet into any required side yard.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am Ord. 2007-1.2, § 16, passed 2-12-2007) Penalty, See § 152.999

§ 152.071 CORNER LOTS.

(A) (1) On corner lots, the side yard on that side of the lot abutting the side street shall not be less than the front yard required for the district in which the lot is located; provided, that on a lot of record, the building width shall not be reduced to less than 40 feet.

(2) Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on the side street.

(B) In all districts except industrial and commercial, nothing between 18 inches from the ground to 8 feet from the ground shall be located, erected, or maintained in the area within a triangle formed by the intersection of the lot lines of a corner lot adjacent to a street or alley back a distance of 20 feet along the lot lines from the intersection. (Figure 3)

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

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§ 152.072 HEIGHT LIMITATIONS.

The height limitations of this chapter shall not apply to chimneys, cooling or water towers, grain elevators, bulkheads, fire towers, stacks, storage towers, tanks, spires, church steeples, or necessary mechanical apparatus. Public, semi-public, or public service buildings, hospitals, institutions, churches, and schools, when permitted in a district, may be erected to a height not exceeding 60 feet; provided, that all required yards are increased by 1 foot for each foot of building height above the height limit otherwise provided.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2011-8.1, § 78, passed 10-10-2011) Penalty, See § 152.999

§ 152.073 OFF-STREET PARKING REQUIREMENTS.

No building shall be erected, enlarged, or changed in use unless there is provided on the lot or tract of land space for the parking of automobiles or trucks in accordance with the following minimum requirements:

(A) Dwellings - 2 parking spaces for each dwelling unit;

(B) Commercial uses - 1 parking space for each 200 square feet, except in the (B-2) Central Business District, where no minimum is required;

(C) Industrial uses - 1 parking space for each 2 employees on the largest shift; and

(D) Places of public assembly - 1 space for each 10 seating capacity in the main auditorium.

(E) Front Yard Parking – No parking shall be permitted in the required front yard in the R-1, R-2, or R-3 Districts; provided, however, parking of automobiles, including pickup trucks and motorcycles, shall be permitted in customary driveways of single or two family dwellings.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 17, passed 2-12-2007) Penalty, See § 152.999

§ 152.074 SWIMMING POOLS.

(A) All “above” or “in” ground swimming pools of a permanent nature constructed within the zoning jurisdiction of the Village of Bennet, Nebraska, shall be constructed in compliance with the building code as adopted by the Village of Bennet.

(B) The swimming pool shall be completely surrounded by a fence or wall not less than 4 feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than 4 inches except for doors and gates. If the pool is constructed wholly or partially above ground level, that part of the pool wall which is out of the ground may be included as part of the fencing height requirement; provided, that the ground is level or slopes away from the pool for at least 3 feet from the pool wall.

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(C) All gates or doors shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times.

(D) On above ground pools, the entrance into the pool must either be enclosed by a fence with a gate as required above, or the entrance must be by use of a limited access ladder which has provisions for making entry to the pool inaccessible when the pool is not in use.

(E) Drainage of the swimming pool must not be onto adjoining property. There shall be no drainage of the swimming pool into the sanitary sewer of the village. Drainage may be permitted into the storm sewer or drainage way provided the chemicals contained in the swimming pool are first diluted.

(F) All chemicals for the swimming pool must be stored in a secure area.
(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.075 RECREATIONAL VEHICLES, TRAILERS, OR EQUIPMENT.

All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere, or except as a sleeping area for visitors for a period of time not greater than 2 weeks.
(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.076 FENCES. The following regulations shall apply to the construction of fences:

(A) No fence shall be constructed closer to the street than the property line. No fence shall be closer than 2 feet to the sidewalk.

(B) No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, or other similar material. No component of a front yard fence shall exceed 4 feet in height, nor shall any structural member exceed 36 inches in cross-sectional area.

(C) No fence shall be constructed that will constitute a traffic hazard by obstructing the visibility at intersections (See § 152.07).

(D) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.

(E) No fence shall be constructed within any residential district of a height greater than 6 feet, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds.

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(F) All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

(G) In commercial and industrial districts, maximum height of fences shall be 8 feet. When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator may, in his or her discretion, allow greater heights up to such industry standards.

(H) The “good” side of a fence, such as, but not limited to, a stockade fence, shall face outward, or towards adjacent property, or the public right-of-way.

(I) All fences constructed in the Village of Bennet shall comply with the provision of this section and obtain a building permit.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 18, passed 2-12-2007) Penalty, See § 152.999

§ 152.077 LIGHTING IN COMMERCIAL AREAS.

Exterior lighting for all uses in commercial and industrial districts shall be designed and installed so as to eliminate direct illumination of adjacent properties. The fixtures shall not cast direct light upward or beyond the property on which they are located.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

SPECIAL USE PERMITS

§ 152.090 GENERAL PROVISIONS.

A special use permit shall be obtained for certain uses which may be harmonious under special conditions and in specific locations within a zone, but may not be allowed under the general conditions of the zone as stated in this code. In granting any special use permit, the Board of Trustees of the Village of Bennet may prescribe and impose appropriate conditions and safeguards, including a specified time limit for a special use.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.091 APPLICATION FOR SPECIAL USE PERMITS.

A request for a special use permit or modification of a special use permit may be initiated by a property owner or his or her authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other plans and data showing the dimensions, arrangements, descriptions, data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in

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relation to the provisions set forth herein. The application shall be accompanied with a nonrefundable fee set by resolution of the Board of Trustees.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.092 ISSUANCE OF SPECIAL USE PERMITS.

(A) (1) Before the issuance of any special use permit, the proposed application shall be referred to the Planning Commission for consideration. The Commission shall have 30 days in which to make its report to the Village Board.

(2) If no report is received from the Commission within 45 days, it shall be assumed that approval has been given.

(B) The Village Board shall consider the application for the special use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Bennet, 1 time at least 10 days prior to the hearing.

(C) The concurring vote of 2/3 of the members of the Board shall be necessary to grant a special use permit. Any conditions imposed on the use shall be itemized, described, or justified, and then recorded and filed in writing.

(D) Any granted special use permit shall become null and void within 1 year of the date of approval if not exercised. A special use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. A special use permit may be revoked if the applicant fails to comply with the imposed conditions.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.093 STANDARDS.

No special use permit shall be granted unless the Planning Commission or Village Board has found:

(A) That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community;

(B) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;

(C) That the establishment of the special use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;

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(D) That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

(E) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

(F) That the use shall not be objectionable due to noise, dust, vapors, or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation;

(G) That the use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property;

(H) That the use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway;

(I) That the use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion;

(J) That the use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.094 SMALL WIND ENERGY SYSTEMS.

In addition to meeting the standards set forth in § 152.093 of this chapter, small wind energy systems may be allowed as specially permitted uses in the A-1, A-2, and I-1 Districts, subject to the following specific conditions:

(A) The base of the tower shall be set back from all property lines, utility easements and rights of way equivalent to the height of the tower, including turbine blades. Any facility mounted on a building shall be set back from the edge of the building equivalent to the height of the facility measured from the building mount.

(B) Maximum tower height, measured to the highest point of the turbine blades shall be:

(1) In the Agricultural Districts – 100 feet;

(2) In the Industrial District – 80 feet.

(C) Noise. Small wind energy systems shall not exceed 60 dba measured at the closest neighboring inhabited structure. The level may be exceeded during short term events such as utility outages or severe wind events greater than 50 mph.

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(D) All small wind energy systems shall be designed and approved by a listing agency such as the American Wind Energy Association, UL, Factory Mutual, or other listing agency, or be designed by a licensed engineer.

(E) All building permit applications shall be accompanied by engineered drawings and specifications for the tower, base, footings, and other facilities from the manufacturer or designer.

(F) All small wind energy systems shall be located, constructed and operated to comply with any applicable Federal Aviation Administration Regulations or Guidelines.

(G) All small wind energy systems shall be in compliance with the National Electric Code.

(H) Any interconnection with the electric utility serving Bennet shall be authorized and approved by such utility.

(I) If a wind generator is inoperable for more than one year, the owner shall be notified that they must, within 3 months of receiving notice, restore to working order or remove the system.

(J) No signs other than manufacturer safety and warning labeling shall be placed on the tower of the turbine. For systems which exceed 12 volts, "High Voltage" warning signs shall be posted on or near the system.

(K) The wind generator system shall not have any illumination unless required by FAA regulations or guidelines.

(L) Any climbing devices shall be removed below 12 feet to prevent unauthorized climbing.

(M) The tower shall be freestanding without the aid of guy wiring.

(N) Turbine blades, whether horizontal or vertical shall be a minimum of 12 feet above the adjacent grade.

(O) All communications and connector lines associated with the installation shall be buried. If obstacles prevent an underground installation, the applicant shall request a waiver from the Village Board.

(Ord. No. 2011-8.1, § 79, passed 10-10-2011)

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BOARD OF ADJUSTMENT

§ 152.105 MEMBERS, TERMS, AND MEETINGS.

(A) Pursuant to Neb. Rev. Stat. § 19-911 (Reissue 2007), the Village Board shall constitute the Board of Adjustment for the Village of Bennet and shall exercise those powers granted to boards of adjustment by state statute and pursuant to Sections 152.106 and 152.107 of the Code of Bennet. The concurring vote of two-thirds (2/3) of the members of the Village Board acting as the Board of Adjustment shall decide any question upon which it is required to pass as such Board.

(B) The Village Clerk/Treasurer or designee shall act as Secretary to the Board and keep a record of all proceedings, but shall take no other part in the Board's deliberations.

(C) Meetings of the Board shall be held at the call of the Chairperson and the other times as the Board shall determine. The Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time such rules and regulations as it may deem necessary, to carry the appropriate provisions of this chapter into effect.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2010-2.1, § 1, passed 7-12-2010)

§ 152.106 APPEALS TO BOARD; RECORD OF APPEAL; HEARINGS AND STAYS.

(A) As provided in Neb. RS 19-909, appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(B) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

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§ 152.107 POWERS AND JURISDICTION ON APPEAL.

(A) The Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made regarding the issuance of special use permits pursuant to Section 152.090 to 152.093 of this Code;

(2) To hear and decide, in accordance with the provisions of these regulations, requests for interpretation of any map; and

(3) To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of these regulations, 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 these regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as 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 these regulations.

(B) No variance shall be authorized by the Board unless it finds that:

(1) The strict application of these regulations would produce undue hardship;

(2) The hardship is not shared generally by other properties in the same district and the same vicinity;

(3) The authorization of the variance will not be a substantial detriment to adjacent properties and the character of the district will not be changed by the granting of the variance; and

(4) The granting of the variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

(C) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to these regulations.

(D) In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make the order, requirement, decision, or determination as ought to be made, and to that end shall have all

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the powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations or to effect any variation in these regulations.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2010-2.1, § 2, passed 7-12-2010)

§ 152.108 APPEALS TO DISTRICT COURT.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. RS 19-912.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

AMENDING THE ZONING CODE

§ 152.120 GENERALLY.

(A) This chapter, including the official zoning map, may from time to time be amended, supplemented, changed, modified, or repealed. In case of a protest against the change, signed by the owners of 20% of more either of the area of the lots included in the proposed changes, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of the opposite lots, the amendment shall not become effective except by the favorable vote of 3/4 of all the members of the Board of Trustees. The Board of Trustees shall request and receive the advice of the Planning Commission before taking definite action on any contemplated amendment, supplement, change, modification, or repeal. No regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the hearing shall be given by publication thereof in a paper of general circulation in Bennet at least 1 time 10 days prior to the hearing.

(B) (1) In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than 1 and ½ inches in height. The posted notice shall be so placed upon the premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of the hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change the notice prior to the hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owners of any lots included in the proposed change be nonresidents of the Municipality, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last known addresses at least 10 days prior to the hearing.

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(2) At the option of the Board of Trustees, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least 10 days prior to the date of the hearing, if they can be served with the notice within Lancaster County. Where the notice cannot be served personally upon the owners or occupants in Lancaster County, a written notice of the hearing shall be mailed to the owners or occupants addressed to their last known addresses at least 10 days prior to the hearing.

(3) The provisions of this section in reference to notice shall not apply in the event of a proposed change in the regulations, restrictions, or boundaries throughout the entire area of an existing zoning district in the Bennet zoning jurisdiction, or in the event 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 municipality, but only the requirements of division (A) above shall be applicable.

(C) In the event that any request for an amendment, supplement, change, modification, or repeal of any provision of this chapter, including the official zoning map, is denied by the Board of Trustees, no new request shall be made for the same or a substantially similar amendment, supplement, change, modification, or repeal within one year of the denial thereof.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2008-1.1, passed 3-10-2008) Penalty, See § 152.999

§ 152.121 FEES.

Before any action shall be taken as provided in §§ 152.120 *et seq.*, except actions initiated by the Planning Commission, the party or parties proposing a change in the zoning regulations or district boundary, shall deposit with the Village Clerk/Treasurer a fee set by resolution of the Board of Trustees to cover the approximate cost of this procedure, and under no condition shall the fee or any part thereof be refunded for failure of the change to be adopted by the Board of Trustees.

(Ord. 2000-9.2, passed 9-13-2000)

§ 152.122 ANNEXATION OF TERRITORY; CHANGE OF ZONING.

When territory comes within the 1 mile zoning jurisdiction of the village by reason of annexation to the village, the Planning Commission shall initiate a change of zoning of the territory and/or lots to the classification or zoning district closest in use and area regulations to the previous county zoning.

(Ord. 2000-9.2, passed 9-13-2000)

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ENFORCEMENT

§ 152.135 RESPONSIBILITY.

The provisions of this chapter shall be enforced by the Zoning Inspector or other individual appointed by the Board of Trustees. Appeal from the decision of the Zoning Inspector may be made to the Board of Appeals as provided herein.

(Neb. RS 19-909, 19-913) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.136 ZONING CERTIFICATE.

A zoning certificate shall be required to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land as herein specified. It shall be the duty of the Zoning Inspector to issue a zoning certificate if the building or other structure and the proposed use thereof, or the proposed use of the land or premise, conforms with all of the requirements herein set forth.

(Neb. RS 19-902) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.137 BUILDING PERMIT.

Application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon as shown by a survey, the size, shape, and location of the building to be erected, and the other information as may be necessary for the enforcement of these regulations.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.999 PENALTY.

(A) (1) Any person, firm, or corporation violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100. Each and every day during which the illegal locating, erection, construction, reconstruction, enlargement, change, maintenance, or use continues may be deemed a separate offense.

(2) In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this chapter, the Zoning Inspector, or any other appropriate municipal authority, or any person who would be damaged by the violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent the violation.

(Neb. RS 19-913) (Ord. 1997-7.1, § 2, passed 7-14-1997)

(B) Violation of the provisions of § 152.053 or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants

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of variances or special exceptions) shall constitute a misdemeanor. Any person who violates § 152.053 or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100, and in addition, shall pay all costs and expenses involved in the case. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Bennet or other appropriate authority from taking the other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2003-5.2, passed 5-12-2003)

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CHAPTER 153: COMPREHENSIVE PLAN

Sections:

153.01 Adoption by reference

The Village's Comprehensive Plan is hereby adopted by reference and incorporated herein as if set out in full.

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