

STATE OF NEBRASKA, COUNTY OF WASHINGTON SS 5-185  
ENTERED IN NUMERICAL INDEX AND FILED FOR RECORD  
THIS 13 DAY OF December, A.D. 1979  
AT 4:41 O'CLOCK P.M. AND RECORDED IN  
BOOK 68 AT PAGE 113  
COUNTY CLERK Charles L. Thomas  
DEPUTY Henry L. Adams

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RESOLUTION

WHEREAS the County Board of Supervisors of Washington County, Nebraska, proposed amendments to the zoning regulations of Washington County, Nebraska, which proposed amendments were duly submitted to the Planning Commission of Washington County, Nebraska, for its recommendations, and,

WHEREAS the Planning Commission of Washington County, Nebraska, has recommended the adoption of such proposed amendments, and

WHEREAS notice of hearing of such proposed amendments was duly given at least ten days prior to hearing as provided by law, and

WHEREAS Public Hearing was had thereon on the September 24th, 1979, and continued on for further study

NOW, THEREFORE, BE IT RESOLVED BY the County Board of Supervisors of Washington County, Nebraska, that the following amendments to the Zoning Regulations of Washington County, Nebraska, be made:

That Section 1.023 be amended as follows:

SECTION 1.023 SPECIAL USE PERMITS.

GENERAL PROVISIONS:

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

Allowable special uses may be permitted, enlarged, or altered upon application for a special use permit in accordance with the rules and procedures of the Board of Supervisors. The Board of Supervisors will grant or deny a special use permit in accordance with the standards set forth herein and the intent and purpose of this ordinance. In granting a special use permit, the Board of Supervisors will authorize the issuance of a special use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special use permit.

APPLICATION FOR SPECIAL USE PERMITS:

A request for a special use permit for a special use or modification of a special use may be initiated by a property owner or his authorized agent by filing an application with the County Building Inspector upon forms prescribed for the purpose. The application shall be accompanied by a site plan and other such plans and data showing the dimensions, arrangements, description data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall be accompanied with a fee of \$50.00 which is non-refundable.

PUBLIC HEARING:

Before issuance of any special use permit, the Board of Supervisors

will consider the application for the special use permit together with the recommendations of the Planning Commission at a public hearing held at the call of the Chairman of the Board within 30 days after the filing of the application and 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 Washington County, one time at least 10 days prior to such hearing. In addition to the publication of the notice as aforesaid a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such posted notice shall be not less than eighteen inches in height and twenty-four inches in width with a white or yellow background and black letters not less than one and one half inches in height. Such posted notice shall be so placed upon or near such premises that it is easily visible from the public street or road nearest the same and shall be so posted at least ten days prior to the date of such hearing. It shall be unlawful for any one to remove, mutilate, destroy or change such posted notice prior to such hearing and any person so doing shall be deemed guilty of a misdemeanor.

#### DECISIONS:

The concurring vote of two-thirds of the members of the Board of Supervisors shall be necessary to grant a special use permit. No order of the Board of Supervisors granting a special use permit shall be valid for a period of longer than six months from the date of such order, unless the Board of Supervisors specifically grants a longer period of time or a building permit is obtained within the six month period and construction is commenced.

#### STANDARDS:

No special use permit shall be granted by the Board of Supervisors unless such Board shall find:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.

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.

That the establishment of the special use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.

That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

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.

The use shall not include any activity involving the use of storage of flammable, or explosive material unless protected by adequate fire-fighting suppression equipment and by such safety devices as are normally used in the handling of any such material.

The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

The use shall not include vibration which is discernible without instruments on any adjoining lot or property.

The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substances which are harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

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.

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.

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.

The balance of Section 1.023 SPECIAL USE PERMITS, beginning with "STANDARDS FOR MOBILE HOMES, SPECIAL USE:" shall remain.

That Section 1.024 be amended as follows:

**SECTION 1.024 BOARD OF ADJUSTMENT**

The Board of Adjustment shall be appointed and constructed as required by law.

The Board of Adjustment shall adopt rules in accordance with the provisions of this regulation. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceeding showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be immediately filled in the office of the Board and shall be a public record.

The Board may, in appropriate cases and conditions, make special exceptions to the terms of these regulations in harmony with its general purpose and intent.

Appeals to the Board may be petitioned by any persons aggrieved or by any office, department, board or bureau of Washington County affected by any decision of the Building Inspector. The appeal shall be filed with the County Clerk accompanied by a filing fee of \$10.00 made payable to the Washington County Treasurer.

The Board is granted the following authority:

- a. To hear and decide appeals where any property owner is aggrieved by the action of the County Board of Supervisors in the adoption and provisions of these regulations.
- b. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of these regulations.
- c. To authorize upon appeal in specific cases such variances or exceptions from the terms of the regulation as will not be contrary or substantially detrimental to the public interest, general purpose, or intent of this regulation.
- d. No variance shall allow the use of property for purposes not authorized within the district.
- e. To hear appeals on the issuance or denial of special use permits by the Board of Supervisors.
- f. Where by reason of exceptional narrowness, shallowness, or shape of specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property; there may be authorized upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without

substantial detriment to the public good, and without substantially impairing the intent and purpose of these regulations. No such variance shall be authorized by the Board unless it finds that: (1) The strict application of the regulation would produce undue hardship; (2) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (3) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (4) the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for the purpose of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the regulation. In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The two-thirds vote of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such regulation.

- g. The Board of Adjustment will interpret the provisions of this regulation in such a way as to carry out its intents and purpose and to adopt from time to time such rules as it may deem necessary to carry out into effect the provisions of said regulation. 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. No hearings shall be held by the Board of Adjustment on any appeal until notice thereof has been given by publication of notice of said hearing in a legal newspaper for at least 10 days prior to the date of said hearing.
- h. From Board to District Court. Appeals from any decision of the Board may be taken and prosecuted to the District Court.

**BUILDING INSPECTOR MAY REQUEST INTERPRETATION.**

The Building Inspector, on any application for a building permit, may request the Board of Adjustment to give the interpretation of the meaning and application of any provision of this regulation. Such request shall comply with in the form of a resolution passed by a two-thirds vote of the members of said Board.

**SECTION 1.025.01**

**A. Subdivision; Platting; Requirements.**

Beginning December 10, 1979

No owner of any real property, located in an unincorporated area, except in an area in which any city or village is exercising subdivision control, shall be permitted to subdivide, plat, or lay out said real property in building lots, streets, or other portions of the same intended to be dedicated for public use, or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first complying with either

- (1) Sections 1.027 and 1.028
- (2) Sections 1.025.01 C
- (3) Section 1.025.01 D

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For the purposes of this section, the date of such subdivision, platting or laying out shall be the date the documents involved shall be filed with the County Clerk.

Definitions.

1. Except as specifically defined herein, the definitions contained in Section 1.025 H, shall apply to Section 1.025.01.

2. For purposes of section 1.025.01 subdivision shall mean the division of a parcel of land into two or more sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the smallest parcel of land created is more than ten acres in area.

3. For purposes of Section 1.025.01, parcel of land shall mean any parcel of land shown as a unit or as contiguous units on the January 1, 1979 tax rolls.

That Section 1.025.01c be amended to read as follows:

1.025.01 C Subdivision; Procedure: Lot Splits

**GENERAL INTENT.** The Planning Commission is hereby authorized to approve or disapprove lot splits in accordance with the following regulations.

**APPLICATION PROCEDURE.** Requests for lot split approval shall be made by the owner of the land to the Building Inspector. Four (4) copies of a drawing to scale of lots involved if there are no structures thereon, or if structures are located on any part of the lot being split, four (4) copies of a survey of the lot(s) and the location of the structure(s) thereon, together with the precise nature, location and dimensions of the split, shall accompany the application. The application shall be accompanied by the names and addresses of all persons to receive notices. Written notices shall be given to all owners of land within 200 feet of the property proposed to be split. Such owners shall have ten (10) days from the date of notification to notify the Building Inspector of any protests they may have concerning the lot-split. The ten (10) day waiting period may be waived upon submission in writing of statements from those to be notified that they have no objection to the proposed lot split.

**APPROVAL GUIDELINES.** Approval or disapproval of lot splits shall be made based on the following guidelines:

- (a) No lot split shall be approved if:
  - (1) A new street or alley is needed or proposed.
  - (2) A vacation of streets, alleys, setback lines, access control of easements is required or proposed.
  - (3) If such action will result in significant increases in service requirements, utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, additional repaving, etc.
  - (4) There is less street right-of-way than required by these regulations or the comprehensive plan unless such dedication can be made by separate instrument.
  - (5) All easement requirements have not been satisfied.
  - (6) If such split results in a tract without direct access to a street.
  - (7) A substandard sized lot or parcel will be created.
- (b) The Planning Commission may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land development regulations and governing body policy. Requirements may include, but not be limited to, installation of public facilities, dedication of right-of-way and easements, and submission of covenants for the protection

of other landowners in the original subdivision.

- (c) The Planning Commission shall, in writing, either approve with or without conditions or disapprove the lot split within thirty (30) days of application. If approved, and after all conditions have been met, the chairman of the Planning Commission shall sign and furnish a certificate of approval to be affixed to the lot-split survey.
- (d) The lot split survey shall then be submitted to the governing body for appropriate action.

1.025.01 D Subdivision; Procedure: Small Tracts.

(1) Whenever any proposed subdivision shall meet the following qualifications the plat may be approved as provided in Section 1.025.01 D

- (A) The proposed plat of subdivision shall include not more than ten acres if a residential plat, nor more than three acres for any other type of plat.
- (B) The proposed plat of subdivision shall create not more than five lots, tracts or parcels of land.
- (C) No public street or easement of access is sought to be dedicated or is contemplated or projected through (as opposed to adjacent to) the lot, tract or parcel proposed to be subdivided or resubdivided; and
- (D) The proposed plat of subdivision shall be in the form required of these regulations and shall contain all the data information and certificates required on final plats.
- (E) Submission of the filing fee required in these regulations.

(2) If the proposed subdivision meets the requirements of 1.025.01 D(1) the subdivider may file a plat with the Planning Commission. The plat shall meet the requirements of Section 1.028 B1. The Commission will consider the plat at a public hearing, of which notice is given in a newspaper of general circulation and will review the plat and other material submitted for conformity thereof to these regulations and will review the recommendations of the County Surveyor, Utility Department, School, and other departments, and may (1) forward the plat to the County Board, with the recommendation that the plat be considered a preliminary plat in which instance the procedures of 1.027 and 1.028 shall be followed or (2) forward the plat to the County Board with the recommendation that the plat be approved without further hearing. The County Board may approve the plat without further hearing, or elect to consider the plat a preliminary plat in which instance the procedures of 1.027 and 1.028 shall be followed.

Section 1.027 B 4 should be amended as follows:

The commission will consider the preliminary plat at (1) a public hearing of which notice is given in a newspaper of general circulation and will (2) review the preliminary plat and other material submitted for conformity thereof to these regulations and will (3) review the recommendations of the County Surveyor, Utility Department, School, and other departments and will (4) recommend to the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him. The Commission shall within 30 days, act on the plat as submitted, or modified, and if approved, the Commission shall express its approval as conditional approval and state the conditions of such approval, if any or if disapproved, shall express its disapproval and its reasons thereof.

BE IT RESOLVED By the County Board of Supervisors of Washington County, Nebraska, that the zoning regulations of Washington County, Nebraska, be amended as follows:

The following should be added to Section 1.028B 1

- O. Lot Area
- P. Lots and blocks numbered numerically.
- Q. Reviewed as to conformity with zoning regulations by the County Surveyor.
- R. Reviewed as to conformity with Zoning regulations by the County Highway Superintendent.

The following should be added to Section 1.027 B 1.

- N. Lot area
- O. Lots and blocks numbered numerically.
- P. Reviewed as to conformity with zoning regulations by County Surveyor.
- Q. Reviewed as to conformity with Zoning regulations by the County Highway Superintendent.

The definition of "Lot" continued in Section 1.025 and 1.036 should be amended to read:

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

That the following should be added immediately prior to Section 1.002C.

**B.L. ENTRANCE APPROVAL REQUIRED.**

All persons desiring to construct any entrance shall apply to the Washington County Superintendent of Roads on a form provided by him for approval of the location, dimensions, design, and construction methods, and material for such entrance. Any entrance constructed without approval shall be removed and all cost shall be a lien on the property served by the entrance.

Such approval shall be given in writing and a record thereof filed with the County Clerk.

That Section 1.029 Subdivision Design Standard Paragraph B1 should be amended by the addition of:

Minimum design standards, roadway grades, horizontal and vertical alignment should agree to the State of Nebraska minimum design standards of the Board of Public Roads - classifications and standards. Standards will be set by County and State Officials.

Paragraph B 2 should be amended to read:  
**STREET STANDARDS.**

Values to be used for the purposes of determining average daily traffic (ADT) for streets associated with different housing types shall be as listed below:

HOUSING TYPE	TYPICAL
Single Family detached homes	7.0 trips per dwelling unit per day
Group or townhouses	6.0 trips per dwelling unit per day
Garden Apt. 1 to 4 stories	5.0 trips per dwelling unit per day
Elevatory Apt. over 4 stories	4.0 trips per dwelling unit per day

Street or Road Surfacing shall be constructed in accordance with the table listed below:

R.O.W.	CLASSIFI- CATION	AVG. Daily Traffic	Daily Heavy Comm. Volume	Portland Cement Asph. C Concrete (inch)Surface Course Co
66	Local	0- 50	0 - 10	6" 2"
66	Residential	51-250	10 - 50	6" 3"
80	Collector	251-400	50 - 80	7" 3"
100	Arterial	401-750	80 - 150	8" 3"
100	Major Arterial	750 or greater than - will be set by County and Sta Officials.		

That Section 1.029 Subdivision Design Standard paragraphs B 3 and B 8 should be deleted.

That there should be added to Section 1.029 Subdivision Design Standard the following:

- B 13. 25 foot minimum pavement width.
- B 14. MATERIALS. Concrete shall conform to Nebraska Dept. of Roads Asphaltic concrete surface course shall be Nebraska Departeme of Roads; Type C. or Iowa Department of Transportation Type surface course.  
  
Asphaltic concrete base course shall be Nebraska Dept. of Road Type B. or Iowa Department of Transportation Type B. Base Course.

Section 1.029 B. 11 should be amended to read as follows:

Dead-end roads or streets, designed to be so permanently, shall not be longer than 600 feet and shall be provided at the closed end with a turn-around having an outside pavement diameter of at least 100 feet, and a road or street right-of-way line diameter of at least 125 feet.

That Section 1.030 Improvements A. General should be amended to read as follows:

**A. General:**

The subdivider shall construct and install the improvements described here in accordance with detailed construction plans and specifications approved by the Board and constructed to the Board's satisfaction within a specified time.

Agreement, Bond, Guaranteeing Installation of required Improvements.

Except for monuments and underground wiring, the following method shall be used by the subdivider to guarantee that improvements required by these regulations can or will be installed in accordance with approved plans and specifications.



- (1) Upon final approval of plans or specifications for required improvements, the owners and/or the subdivider of the land proposed, to be subdivided shall enter into an agreement with the appropriate municipality or county, under which the owners and/or subdivider agree to install such required improvements at their own expense in accordance with the theretofore approved plans and specifications, within the time prescribed by the provisions of these regulations. Such agreement shall be conditioned upon the approval of the final plat of subdivision.
- (2) Simultaneously with the execution of the agreement provided for in paragraph (1) above, the owner and the subdivider of the land proposed to be subdivided shall furnish a corporate completion bond by a firm authorized to do business in Nebraska with good and sufficient sureties thereon, or a cashier's check, escrow account, or irrevocable letter of credit in favor of the governing body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements as aforesaid. Such financial guarantee shall be conditioned upon the approval of the final plat and further conditioned upon the actual completion and installation of such required improvements within two (2) years from the date that the final plat is approved by the planning commission.
- (3) Simultaneously with the execution of the agreement provided for in paragraph (1) above, if the subdivider furnishes a corporate completion bond, he shall also deposit in escrow with the governing body who is to accept such improvements, cash in the amount of fifteen per cent (15%) of the cost of all improvements to be made in accordance with the plans and specifications for required improvements therefor approved by the planning commission. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit in favor of the governing body, fifteen per cent (15%) of the amount of such cashier's check, escrow account, or letter of credit of the governing body, and shall be held as a deposit in escrow after the final completion of such improvements. The subdivider shall agree that such deposit in escrow may be held by the governing body for a period of eighteen (18) months after the final completion of such improvements for the purpose of:
  - (a) Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the governing body; and
  - (b) Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.

Such escrow agreement shall also provide that, as such defects have so developed, that the deposit may be applied by the governing body for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such eighteen (18) month period shall be returned by the governing body to the depositor, or paid to the order of the depositor, or paid to the order of the depositor without payment of interest by the governing body.

The Contractor shall have the option, after the completion of the improvements to purchase a two year maintenance bond in the amount of the original contract, which bond shall be approved by the Board of Supervisors, and upon the approval of cash bond, the fifteen per cent (15%) deposit in escrow shall be released.

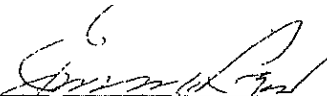
- (4) Prior to offering any improvement to the governing body, the subdivider shall furnish good and sufficient guarantee that all indebtedness incurred for supplies, material, labor furnished, or engineering and professional services in the construction of improvements shall have been paid in full and that there are no claims for damage or suits against such contractor involving said improvement.

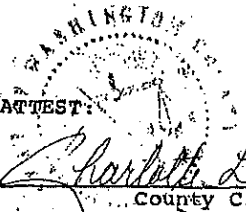
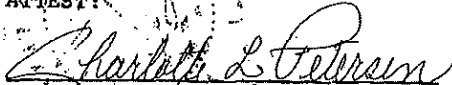
That Section 1.030 Improvements G. Acceptance of Improvements should be deleted.

BE IT FURTHER RESOLVED that this Resolution be spread at large in the minutes of the proceedings of the County Board and be published in book or pamphlet form and filed with the County Clerk within fifteen days after its passage and approval.

BE IT FURTHER RESOLVED that proof of publication of Resolution shall be filed for record in the office of the County Clerk of Washington County, Nebraska.

Passed and approved this 10th day of December, 1979

  
Chairman, County Board of Supervisors of  
Washington County, Nebraska

  
ATTEST:  
  
County Clerk