

**AGENDA
CITY COUNCIL MEETING
September 6, 2016**

1. [Approval of Minutes – August 16, 2016](#)

2. [Approval of Claims](#)

The City Council will be hearing public comments on the following agenda items: _____

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. [Action on request to approve a Fireworks Display for Wayne State College after their “Family Day Football Game” on Saturday, September 10, 2016 — Christin Dalaviris, Director of Student Activities](#)

Background: Wayne State College is planning another fireworks display this year on September 10th after their “Family Day Football Game.” This requires both State and City permit.

4. [Public Hearing: Application for Community Development Block Grant – Phase I Funds \(Advertised Time: 5:30 p.m.\)](#)

Background: Wayne has received two CIS grants of \$235,000 and \$120,000 that were set aside for the Southeast quadrant of Wayne. We used these to build the storm shelter/rest room at East Park, demolish abandoned trailers and houses and are working on home improvement grants for eligible homeowners. Wayne had to match these grant funds with local spending on other neighborhood improvement projects, which were the replacement of the old water mains by Hank Overin Field and Nebraska Street.

Now we have to compete with other communities for another potential \$700,000 in CDBG funds for the community improvement projects in the combined areas of Southeast and Northwest Wayne. In order for Wayne to be eligible to compete for the new funds, we have to develop a strategic plan for community improvement projects in these areas.

There are also grant funds available to help produce this strategic plan. The grant application on this agenda for your consideration is for funding assistance to develop the strategic plan necessary before we can apply for the \$700,000.

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to approve the application and develop the strategic plan.

5. [Resolution 2016-59: Authorizing Chief Elected Official to request Community Development Block Grant Funds](#)

6. Public Hearing: Budget Hearing (Advertised Time: 5:30 p.m.)
7. Resolution 2016-60: Adopting 2016-2017 Budget
8. Public Hearing: Tax Asking/Property Tax Levy (Advertised Time: 5:30 p.m.)
9. Resolution 2016-61: Approving Final Property Tax Request for 2016-2017
10. Action on Capital Project's City Sales Tax Budget
11. Ordinance 2016-14: Approving Annual Appropriation Bill
12. Action on Approving Allowable 1% Increase in Base Limitation of Restricted Funds Budget
13. Action to request the Wayne City Council to consider transferring the unallocated portion (\$44,906.00) of the 1.85% dedicated to economic development to the Wayne Community Redevelopment Authority as well as any future overages

Background: In 2005, the City Council established a standing annual investment of 1.85% of total annual electric department revenue (estimated at \$130,000) to stimulate future business development. Wayne Area Economic Development makes an annual request for a portion of that (\$92,000 this year) for business development, travel and marketing the community. Each year, the Council has allocated the remaining amount (\$44,906 this year) to the Community Redevelopment Authority for their use in future business development.

Recommendation: The CRA has made their annual request for the remaining funds of \$44,906.

14. Report on impact study of hooking onto water line in Muhs' Acres Subdivision — Steve Rames, McLaury Engineering

Background: The developer of Tuffern Blue Estates Subdivision, which abuts Muhs' Acres on the west, has requested to connect to the city water system at Muhs' Acres. Muhs' Acres residents have expressed concerns about connecting additional lots to the system inside Muhs' Acres and have asked for engineering verification that the Tuffern Blue Subdivision and allowable livestock would not affect their volume or water pressure.

We asked McLaury Engineering, Inc., the engineer for Tuffern Blue Estates Subdivision, and Olsson Associates, the original design engineer for the Muhs' Acres' project, to calculate the estimated peak demand for Tuffern Blue and what its effect on Muhs' Acres would be. Both calculated no significant effect on Muhs' Acres' water pressure or flow as the result.

Recommendation: Connections of new subdivisions to water, sewer and electricity do not require Council action. It is the responsibility of the project engineers to design the systems. Because of the past concerns expressed at City Council meetings, the Mayor has asked that that we bring this engineering report back to the City Council

for the benefit of the residents of the subdivisions and the city water rate payers to see if there are any additional questions.

15. [Action on Contractor's Application for Payment No. 14 for the "2016 Wayne Aquatic Center Project" in the amount of \\$267,273.36 to Christiansen Construction Co., LLC](#)

Recommendation: This is for work done according to contract and approved for payment by the project engineer.

16. [Action on Pay Application No. 13 for the "2015 Wastewater Treatment Facility Improvement Project" in the amount of \\$109,685.62 to Eriksen Construction Co., Inc.](#)

Recommendation: This is for work done according to contract and approved for payment by the project engineer.

17. [Action on Certificate of Substantial Completion for the "2015 Wastewater Treatment Facility Improvement Project"](#)

18. [Action on Amendment to Agreement – 2015 Wastewater Treatment Facility Improvement Project – to increase budget one time for a not to exceed amount of \\$7,500 — Roger Protzman, JEO Consulting Group, Inc.](#)

Background: As I said in my email earlier, this is the project we never talked about because it went so smoothly. The original contract is based on the expected scope of work for the project. After asking me, our staff asked for additional consultation, and we added some additional work to the project, knowing it would create more engineering costs to be tabulated later.

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to approve the amendment to agreement.

19. [Action to Approve Chapter XV - Land Usage](#)

Background: This is another section of the recodification and modernizing of the Wayne City Code. Council action of this section on Tuesday is approval of the draft text to be submitted to the publisher for final print of the entire code. The city code will not be legally changed until the total revised version is approved by Ordinance by the City Council. Wayne staff has reviewed and updated this section with our City Attorney for submittal to the Council for consideration.

20. [Adjourn](#)

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

**MINUTES
CITY COUNCIL MEETING
August 16, 2016**

The Wayne City Council met in regular session at City Hall on Tuesday, August 16, 2016, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Jennifer Sievers, Jason Karsky, Nick Muir, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August 4, 2016, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Haase made a motion, which was seconded by Councilmember Sievers, whereas, the Clerk has prepared copies of the Minutes of the meeting of August 2, 2016, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMERICAN RED CROSS, RE, 10.00; AMERITAS, SE, 2535.07; APPEARA, SE, 230.05; BAKER & TAYLOR BOOKS, SU, 1543.73; BARONE SECURITY SYSTEMS, SU, 142.00; CHARTWELLS, SE, 4892.90; CHEMQUEST, SE, 595.00; CHRISTIANSEN CONSTRUCTION, SE, 145425.48; CITY EMPLOYEE, RE, 401.50; CITY EMPLOYEE, RE, 1382.85; CITY EMPLOYEE, RE, 111.30; COMMUNITY HEALTH, RE, 4.00; COPY WRITE PUBLISHING, SU, 246.25; DEMCO, SU, 195.22; DIAMOND VOGEL PAINTS, SU, 99.90; DUTTON-LAINSON, SU, 2658.96; ERIKSEN CONSTRUCTION, SE, 33150.00; FLOOR MAINTENANCE, SU, 36.79; FRANK SHEDA JR., SE, 210.00; FREDRICKSON OIL, SU, 53.00; GERHOLD CONCRETE, SU, 1086.40; GODFATHER'S PIZZA, SU, 144.43; GREVE, ELAINE, RE, 393.85; GROSSENBURG IMPLEMENT, SU, 204.66; HELENA CHEMICAL CO., SU, 40.00; ICMA, SE, 7624.25; INGRAM BOOK CO, SU, 9.10; IRS, TX, 27333.55; GARNISHMENT, PY, 243.00; LAQUINTA INNS & SUITES, SE, 99.00; LUTT OIL, SU, 4714.97; MARCO INC, SE, 126.36; MIDWEST LABORATORIES, SE, 408.00; NE DEPT OF REVENUE, TX, 3741.73; NE LIBRARY COMMISSION, SU, 819.00; NE JOURNAL LEADER, SU, 29.95; NORFOLK DAILY NEWS, SE, 40.00; NSVFA, FE,

744.00; OCLC, INC, SU, 64.24; OVERDRIVE, INC., SU, 44.97; PAC N SAVE, SU, 8.27; PENGUIN RANDOM HOUSE, SU, 127.50; PITNEY BOWES INC, SU, 253.85; REPCO MARKETING INC, SU, 43.50; RESCO, SU, 21092.38; ROTARY CLUB OF WAYNE, FE, 160.00; S & S WILLERS, SU, 305.66; SCHNEIDER ELECTRIC, SE, 8000.00; SPARKLING KLEAN, SE, 2885.57; STALP GRAVEL, SU, 1395.47; SUNSET LAW ENFORCEMENT, SU, 2498.00; TAK, INC, SE, 96.00; TROPICAL WATER, SU, 230.35; TRUCK CENTER COMPANIES, SE, 545.18; UNITED WAY, RE, 5.00; UTILITY CUSTOMER, RE, 126.94; UTILITY CUSTOMER, RE, 105.21; UTILITY CUSTOMER, RE, 78.49; UTILITY CUSTOMER, RE, 28.27; UTILITY CUSTOMER, RE, 150.00; UTILITY CUSTOMER, RE, 100.62; UTILITY CUSTOMER, RE, 65.52; WAYNE AUTO PARTS, SU, 701.03; WAYNE COUNTY CLERK, SE, 90.00; WAYNE HERALD, SE, 1600.77; WAYNE RADIO WORKS, SE, 844.00; WAYNE VETERINARY CLINIC, SE, 205.90; WAPA, SE, 28038.87; WINTER EQUIPMENT CO, SU, 2880.00; WISNER WEST, SU, 42.26; CITY OF WAYNE, PY, 76,224.75; 4IMPRINT, INC., SU, 994.71; AM CONSERVATION GROUP, SU, 593.60; BEEHIVE INDUSTRIES, FE, 3600.00; CITY EMPLOYEE, RE, 197.09; BSN SPORTS, SU, 26.29; CITY EMPLOYEE, RE, 167.40; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 150.00; CREATIVE ADVERTISING PRODUCTS, SU, 455.00; DAKOTA RIGGERS, SU, 302.03; DAS STATE ACCTG, SE, 71.16; DEARBORN NATIONAL LIFE, SE, 2105.64; CITY EMPLOYEE, RE, 27.57; DUTTON-LAINSON CO, SU, 916.93; ECHO GROUP, SU, 1418.34; ED. M FELD EQUIPMENT, SE, 768.50; EGAN SUPPLY, SE, 6978.33; ELLIS HOME SERVICES, SE, 478.84; FLOOR MAINTENANCE, SU, 61.56; FREDRICKSON OIL, SU, 28.15; GERHOLD CONCRETE, SU, 2463.76; HAWKINS, SU, 26.64; HUBER TECHNOLOGY, SU, 232.75; JOHN'S WELDING AND TOOL, SU, 81.00; CITY EMPLOYEE, RE, 384.46; K & S DOOR CO, SU, 76.00; KRIZ-DAVIS, SU, 2866.07; MCLAURY ENGINEERING, SE, 19820.75; MCLAURY ENGINEERING, SE, 2113.75; NE SAFETY COUNCIL, FE, 310.00; NPPD, SE, 395221.14; NNPPD, SE, 12579.22; PARTS ENGINEERING, SU, 189.28; RESCO, SU, 561.08; STADIUM SPORTING GOODS, SU, 306.00; STAPLES, SU, 194.38; SUPERCIRCUITS, SU, 5598.01; THE RADAR SHOP, FE, 215.00; ULINE, SU, 119.15; VIAERO, SE, 132.53; WAED, FE, 159.00; WAYNE SWIM TEAM, RE, 1072.89; WESCO, SU, 1206.96; ZEE MEDICAL SERVICE, SU, 177.06

Councilmember Haase made a motion and Councilmember Sievers seconded to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the City Council would be hearing public comments on agenda items 3, 5, 7, and 8.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Megan Weaver, Executive Director of Wayne Community Housing Development Corporation, and Nancy Braden, Finance Director, updated the Council on the housing programs in Wayne.

In addition, they were requesting Council action to amend what is called "Appendix A," which is an addendum to the City's housing reuse plan. Each reuse plan is to include all of the grants the City has. The District did not know the City had the 2005 grant, and this is the reason for the amendment.

Ms. Braden was also recommending that the City ask the State to consider allowing Wayne to amend its guidelines to raise the median income from 100% to 120%. If they approve of the same, it will come back before Council for final approval. This will allow more people to use the programs.

Councilmember Sievers made a motion, which was seconded by Councilmember Brodersen to amend Appendix A – City of Wayne Housing Reuse Plan for Recaptured and Program Income Funds, by adding Grant No. 05-TFHP-535 thereto, and directing staff to make the request to change the AMI from 100% to 120%. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Tony Demir, CEO of Green Star Gasifiers, gave a presentation on his company, which uses renewable resources to help generate power for communities. His company will be relocating their corporate headquarters from Kentucky to South Sioux City, Nebraska, and will be building a power plant in South Sioux City. He was proposing to build a 3-megawatt power plant in Wayne, which would add 13 full-time employees. The cost would be about \$17 million. They will need approximately 5-7 acres of land to build this on. This would be at no cost to the City. The construction phase of this power plant, alone, would create over 100 jobs, over a 12-month cycle. This would also provide an income source to the City of Wayne in the form of property taxes, because the facility would have an assessed property value. He wanted to introduce Wayne to a variety of renewable resources, such as wind, solar, hydro, and bio-mas

gasification, where they utilize wood waste and solid waste. Mr. Demir stated he is talking with seven other Nebraska communities, including Wisner and Superior. He stated their model works really well with the smaller municipalities because they do not have any reason not to accept these proposals. Their model does not work well with big cities because when you get into a certain area, it becomes very politically driven. The problem they will have in Nebraska is that they will not be able to accommodate the demands. So many small municipalities need what they are talking about. South Sioux City is expected to provide 50 direct jobs and about 450 indirect jobs to the community. They have two bio-mas gasifiers running in Kentucky (the cities of Bowling Green and Owensboro). They do not have any power plants running as of yet. Their first power plant will be the one in South Sioux City. The lifespan of the plant is about 30 years; however, power purchase agreements are usually 20-year terms. There would be no odor with this process.

When asked how this ties in with the Big Rivers Contract, Administrator Johnson stated that he has retained an attorney to look at the options we have in our contract with Big Rivers.

Tammy Bailey, Grant Administrator with the City of South Sioux City, was also present to answer questions and explain how the City of South Sioux City made the decision to go with Green Star.

Mr. Demir would like to keep the dialog going with the City of Wayne, hoping to bring a proposal and then a facility to Wayne. Council consensus was to keep the dialogue open and for Mr. Demir to send more information to the Council on the subject.

Roger Protzman of JEO Consulting Group was present to review the sludge disposal process for the lagoon. Sludge removal has been done twice before based on the number of tons that could be removed for a fixed dollar amount. Because the lagoon has been drying up, it is hard to estimate how much sludge is actually out there. The question before Council was whether or not they wanted to do everything needed to close the lagoon regardless of the cost, or whether

or not they wanted to remove what can be removed for a fixed dollar amount. He noted it was difficult to say at this time how much it would cost to remove all but six inches of sludge.

Administrator Johnson advised the Council that if they do not have any use for the lagoon, the cheapest way to go is to do nothing and let it dry up on its own. \$250,000 was placed in the budget for sludge removal. No one knows how to bid on this, because we do not have any idea of how much sludge is left. His recommendation was to bid it out like we have done in the past, which was who will haul the most for \$250,000.

Mr. Protzman stated that Council needs to decide how they want to bid it – the whole lagoon or just put in a budget number of \$0 to \$250,000 and then authorize staff to go out for bids. He would not recommend doing nothing, however. Since the City is the originator of the waste, the City has to keep records on where it is applied, how much is applied, and at what agronomic rate was it applied. The City does bear some responsibility in this process.

After discussion, Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to direct City staff to bid out 2,000 tons of sludge and to seek bids from area producers on attaining that sludge. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The following Resolution would approve the “Amendment to Contract No. 14-CIS-006” which would extend the contract termination date of CIS Grant 14-CIS-006 to May 1, 2017.

Councilmember Brodersen introduced Resolution No. 2016-57 and moved for its approval; Councilmember Muir seconded.

RESOLUTION NO. 2016-57

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA, TO APPROVE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AMENDMENT TO CONTRACT NO. 14-CIS-006 BETWEEN THE CITY OF WAYNE AND THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The following Resolution would establish additional criteria for the LB840 Citizens Advisory Review Committee to use when reviewing and making recommendations on LB840 applications. Said criteria is as follows:

- To place a 24-month maximum time limit on projects to commence, unless otherwise recommended by the LB840 Citizens Advisory Review Committee;
- To review and reconsider any projects that are over 24 months old; and
- To review and reconsider any projects that have had any substantial change of scope and/or total project fund changes.

Councilmember Eischeid introduced Resolution No. 2016-58 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2016-58

A RESOLUTION ESTABLISHING POLICIES FOR THE LB840 CITIZENS ADVISORY REVIEW COMMITTEE.

Councilmember Giese thought a two-year time limit was excessive.

Wes Blecke, Executive Director of WAED, was present, and advised the Council that the second bullet would affect two projects at this time – Wriedt Properties and Benscoter Development.

After discussion, Councilmember Eischeid reintroduced Resolution No. 2016-58 and moved for its approval, with the following amendment:

- To place a 12-month maximum time limit on projects, and if said project is not completed within 12 months, it can be extended to 24-months after the applicant has come back before the LB840 Citizens Advisory Review Committee and City Council;
- To review and reconsider any projects that are over 24 months old; and
- To review and reconsider any projects that have had any substantial change of scope and/or total project fund changes.

Councilmember Brodersen seconded.

RESOLUTION NO. 2016-58

A RESOLUTION ESTABLISHING POLICIES FOR THE LB840 CITIZENS ADVISORY REVIEW COMMITTEE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Zoning Administrator, stated that when Barclay's First Addition was platted, there was a street known as "Barclay Drive" in that addition. However, it was not used when Providence Road was constructed. The abutting property owners have used that property as their own, not knowing it was a city street. One of the properties is for sale, and the proposed buyer would like to add on an addition thereto. They will not be able to unless the City would vacate that property. Courthouse records have been checked, and staff has found no indication of this property ever being vacated. The vacation of this street will get the property back on the tax rolls. The City will retain an easement for utilities.

Councilmember Sievers introduced Ordinance 2016-13, and moved for its approval; Councilmember Giese seconded.

ORDINANCE NO. 2016-13

AN ORDINANCE APPROVING VACATION OF BARCLAY DRIVE LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Eischeid, to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to move for final approval of Ordinance No. 2016-13. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

McLaury Engineering Co., Inc., presented Application for Payment No. 1 for the "Community Activity Center Parking Lot Project" for \$48,949.00 to Progressive Property Inspections, LLC. They have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Brodersen made a motion, which was seconded by Councilmember Sievers, approving Application for Payment No. 1 for \$48,949.00 to Progressive Property Inspections, LLC, for the "Community Activity Center Parking Lot Project." Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 7:46 p.m.

CLAIMS LISTING

SEPTEMBER 1, 2016

Vendor Name

AARON SAGE	DOG PARK REPAIRS	171.56
AERO-MOD, INC.	PLOYMER	611.33
ALL-AMERICAN PUBLISHING	T SHIRT ADVERTISING	244.00
AMAZON.COM, LLC	DVD'S/OFFICE SUPPLIES	1,404.87
AMERICAN RED CROSS	PAYROLL DEDUCTIONS	20.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	5,078.45
AMY K. MILLER	ATTORNEY FEES	5,416.67
APPEARA	LINEN & MAT SERVICE	278.60
ARNIE'S FORD INC	BRAKE REPAIRS/DETAIL UPLANDER	401.46
BACKFLOW APPARATUS	BACKFLOW METER	81.80
BEIERMANN ELECTRIC	BORING	900.00
CITY EMPLOYEE	MEDICAL REIMBURSEMENTS	554.30
BIG T ENTERPRISES, INC	BATTERY	95.95
BLACK HILLS	GAS BILLS	2,238.82
BLUE CROSS BLUE SHIELD	HEALTH INSURANCE PREMIUMS	33,840.45
BOMGAARS	TOOLS/FASTENERS/OIL ETC	1,648.18
BSN SPORTS, INC	FOOTBALLS	89.94
C. H. GUERNSEY & COMPANY	POWER/TRANSMISSION SERVICES/GENERATION	11,487.00
CARHART LUMBER COMPANY	SOFTENER SALT/TOOLS/CONNECTORS	360.15
CENTURYLINK	TELEPHONE CHARGES	416.35
CERTIFIED TESTING SERVICES	AQUATIC CENTER	333.00
CHEMQUEST, INC.	VER-DATE CHEMICAL	1,787.50
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	250.00
CITY OF WAYNE	PAYROLL	155,002.37
CITY OF WAYNE	REC ENTRY FEES-REIMBURSED	122.50
CITY OF WAYNE	UTILITY REFUNDS	691.67
COMMUNITY HEALTH	PAYROLL DEDUCTIONS	8.00
JACK'S UNIFORMS	POLICE EQUIPMENT/UNIFORM	498.40
DANKO EMERGENCY EQUIPMENT	ANCHOR STAKE	83.00
DAS STATE ACCTG	TELECOMMUNICATION CHARGES	448.00
DEARBORN NATIONAL LIFE	VFD INSURANCE	116.96
CITY EMPLOYEE	MEDICAL REIMBURSEMENTS	93.42
EAKES OFFICE PLUS	COPY CHARGES	1,033.35
ED. M FELD EQUIPMENT CO INC	BREATHING AIR/EXTINGUISHER INSPECTIONS	699.75
ERIKSEN CONSTRUCTION CO, INC	BUTTERFLY VALVE	1,122.00
EVELINE W THOMPSON	TREE INCENTIVE	50.00
FIREGUARD INC.	CHARGING VALVE	2,490.44
FIRST CONCORD GROUP LLC	FLEX	3,072.97
FLOOR MAINTENANCE	JANITORIAL SUPPLIES	598.92
GALE GROUP	BOOKS	173.48
GERHOLD CONCRETE CO INC.	CONCRETE	1,810.45
GROSSENBURG IMPLEMENT INC	FLANGE/V BELT/PLUG	241.17
HACH COMPANY	BUFFER TABS	118.53
HAUFF MID-AMERICAN SPORTS	FOOTBALL PANTS/MARKING PAINT	839.40
HAWKINS, INC	POOL CHEMICALS/FLUORIDE	3,068.79
HD SUPPLY WATERWORKS, LTD	OMNI METERS	597.26
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	43.68
HEIKES AUTOMOTIVE LLC	TURN SIGNAL SWITCH	36.00
HOMETOWN LEASING	COPIER LEASE	412.86
HYDRAULIC EQUIPMENT	PISTON RING	49.16
ICMA RETIREMENT	RETIREMENT	15,236.32

IRS	PAYROLL TAXES	54,369.39
ISLAND SPRINKLER SUPPLY CO	IRRIGATION SUPPLIES	242.64
JEO CONSULTING GROUP	AQUATIC CENTER/SLUDGE REMOVAL	7,072.25
JIM GRANQUIST	FD SUPPLIES	14.70
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	82.14
KATHLEEN A LAUGHLIN	PAYROLL DEDUCTIONS	486.00
KAUP SEED & FERTILIZER	GRASS SEED	800.00
L.G. EVERIST	CRUSHED ROCK	636.59
CITY EMPLOYEE	MEDICAL REIMBURSEMENTS	193.55
LOGAN VALLEY FOOTBALL	DUES	100.00
LOVE SIGNS	TRAIL SIGN	77.23
MCCROMETER INC.	FLOW METER	1,645.55
MCLAURY ENGINEER, INC	E 4TH/NE ST,CAC LOT/MUHS/BANK STABILIZATION	6,312.50
METERING & TECHNOLOGY SOL.	SENSUS METERS	2,907.50
MICHAEL TODD & CO INC	NO PARKING SIGNS	745.56
MISS MOLLY'S COFFEE CO LLC	CHAMBER COFFEE	180.00
MURPHY TRACTOR & EQUIPMENT	CUTTING EDGE/STEERING REPAIR	542.54
NATP	VEHICLE FEES	85.00
NE DEPT OF ENVIRONMENTAL QUALITY	TS OP FEE	500.00
NE DEPT OF LABOR	ELEVATOR INSPECTION	140.00
NE DEPT OF REVENUE	PAYROLL TAXES	7,310.75
NE HARVESTORE	SKIDLOADER TIRES	740.00
NE MOSQUITO	ANNUAL MEETING/DUES	50.00
NE PUBLIC HEALTH	FLUORIDE/COLIFORM TESTING	382.00
NE SAFETY COUNCIL	SAFETY VIDEO SHIPPING CHARGES	9.70
NORTHEAST NE PUBLIC POWER	ELECTRICITY/RATE DISPUTE	7,098.89
NORTHEAST NE RC&D	HAZARDOUS WASTE FEE	200.00
ONE CALL CONCEPTS, INC	DIGGERS HOTLINE	82.80
PICK EQUIPMENT & CHOPPING	CLEAN OUT SILTED DITCH	300.00
PLUNKETT'S PEST CONTROL	PEST CONTROL	91.14
PROGRESSIVE PROPERTIES	TIF PRINCIPAL & INTEREST	5,921.25
PROGRESSIVE PROPERTY INSP	CAC PARKING LOT	45,646.55
PUMP HOOK & PLACEMENT	CONCRETE PAD UNDER PLAYGROUND EQUIPMENT	611.00
QUILL CORPORATION	OFFICE SUPPLIES	409.95
R.J. THOMAS MFG. CO., INC	PLASTIC RECYCLE CONTAINERS	294.00
REHAB SYSTEMS	JET/VAC CLEANING SEWER LINES	42,719.35
RESCO	CONDUCTOR BRUSH/SOCKET DRIVER	88.73
SEBADE HOUSING	TIF PRINCIPAL & INTEREST	1,000.00
SKARSHAUG TESTING LAB INC	CLEAN & TEST GLOVES/ELBOW	283.59
STAPLES	OFFICE SUPPLIES	97.46
STATE NEBRASKA BANK	PETTY CASH	133.99
TYLER TECHNOLOGIES	UTILITY BILL ONLINE FEES	200.00
UNITED WAY	PAYROLL DEDUCTIONS	10.00
US BANK	TECH SUPPLIES/LODGING/SPEAKER/JR FIRE SUPPLI	8,778.66
VAN DIEST SUPPLY	HERBICIDE	115.04
VERIZON WIRELESS SERVICES LLC	CELL PHONES	99.79
VIAERO	CELL PHONES	219.16
WAYNE AREA ECONOMIC DEVEL	CONTRIBUTION	7,445.66
WAYNE COUNTY COURT	BOND	400.00
WESCO DISTRIBUTION INC	CONDUIT/PVC/WIRE/BOX PAD/CONNECTORS	5,996.28
WESTERN RIDGE III	TIF PRINCIPAL & INTEREST	2,512.19
WISNER WEST	FD GASOLINE	34.71

[Back to Top](#)

Wayne State College

August 30, 2016

City of Wayne
306 Pearl Street
PO Box 8
Wayne, NE 68787

To whom it may concern;

On behalf of the Office of Student Activities at Wayne State College, I am writing to request permission to do a short 15 minute fireworks display after our Family Day Football game on Saturday, September 10th 2016.

We would like to do a fireworks display as a grand ending to our Family Day Activities. We are using a licensed fireworks company to provide us with our fireworks display which will occur shortly after the WSC home football game ends (approximately 8:45 pm).

The Wayne State Campus Security and Student Activities Staff will assist the Wayne Volunteer Fire Department with securing the fireworks site. Fireworks will be set off from a grassy area off of the walking path behind the football stadium. Please contact me by email at chdalav1@wsc.edu or by phone at 402-375-7589 if you have any questions or concerns regarding our request.

Thank you for your time and consideration. We look forward to working with the City of Wayne to facilitate another eventful event.

Respectfully,

Christin Dalaviras
Director of Student Activities
Wayne State College
Chdalav1@wsc.edu
402-375-7589

RESOLUTION NO. 2016-59

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO REQUEST COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

WHEREAS, the City of Wayne, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program; and

WHEREAS, the City of Wayne, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application, which for an amount of requesting \$30,000 of CDBG Comprehensive Development (CD) Phase I Funds, of which \$27,000 is for a planning study and \$3,000 for the general administration of the grant. Local matching funds of \$9,000 will be provided by the City of Wayne. Leverage of \$9,000 is also required. The total project cost is \$39,000. All activities will be conducted within the LMI target area. All CDBG funds will benefit low-to-moderate income persons in the community. No persons will be displaced as a result of the CDBG activities.

NOW, THEREFORE, BE IT RESOLVED BY the City Council of the City of Wayne, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents, or other memoranda between the City of Wayne and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED this 6th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

COMPREHENSIVE DEVELOPMENT (CD) APPLICATION

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

Nebraska Department of Economic Development (DED)

PART I. GENERAL INFORMATION

2016

DED USE ONLY
Application Number 16-CD-
Date Received

<p>1. APPLICANT IDENTIFICATION</p> <p>Applicant Name <u>City of Wayne</u></p> <p>Mailing Address <u>PO Box 8</u></p> <p>City, State, Zip <u>Wayne, NE 68787</u></p> <p>Local Government Contact <u>Lowell D Johnson</u></p> <p>Telephone <u>402-375-1733</u></p> <p>Fax Number <u>402-375-1619</u></p> <p>Federal ID # <u>47-6006407</u></p> <p>DUNS# <u>031172505</u></p> <p>Email <u>cityadmin@cityofwayne.org</u></p> <p>Address <u>cityadmin@cityofwayne.org</u></p>	<p>2. PERSON PREPARING APPLICATION</p> <p>Name <u>Jan Merrill</u></p> <p>Address <u>111 S 1st Street</u></p> <p>City, State, Zip <u>Norfolk, NE 68701</u></p> <p>Telephone # <u>402-379-1150</u></p> <p>Federal ID <u>47-6034922</u></p> <p>Email Address <u>jan@nedded.org</u></p> <p>Application Preparer (Check one)</p> <p><input type="checkbox"/> Local Staff <input type="checkbox"/> Out-of-State Consultant</p> <p><input type="checkbox"/> In-State Consultant <input type="checkbox"/> Non-Profit</p> <p><input checked="" type="checkbox"/> Economic Development District</p>
<p>3. ACTIVITY TYPE</p> <p><input checked="" type="checkbox"/> CD Phase I (Pre-development)</p> <p><input type="checkbox"/> CD Phase II (Implementation Year 1)</p>	<p>4. FUNDING SOURCES</p> <p>CDBG Funds Requested \$ _____</p> <p>Other Funds \$ _____</p> <p>Total Project Funds \$ _____</p> <p>(Round amounts to the nearest dollar.)</p>
<p>5. APPLICATION TYPE</p> <p><input checked="" type="checkbox"/> Individual</p>	<p>7. PROJECT NAME AND LOCATION</p> <p><u>Wayne Comprehensive Development (CD)</u></p>
<p>6. SERVICE AREA</p> <p>City <u>Wayne</u> County <u>Wayne</u></p> <p>Legislative District <u>17</u> Congressional District <u>1</u></p>	

8. PROJECT SUMMARY: Brief quantitative description of the project for which CDBG funds are requested.

ALSO: Attach a 1 page project summary following this page.

9. CERTIFYING OFFICIAL: Chief elected officer of local government requesting CDBG funds

To the best of my knowledge and belief, data and information in this application are true and correct, including any commitment of local or other resources. This application has been duly authorized by the governing body of the applicant following an official public hearing. This applicant will comply with all federal and state requirements governing the use of CDBG funds.

_____ Signature in Blue Ink	Ken Chamberlain, Mayor Typed Name and Title	_____ Date Signed
_____ Attest	Betty A McGuire, City Clerk Typed Name and Title	_____ Date Signed

PART II. FUNDING SUMMARY CD PHASE I (Pre-development)

(Round amounts to the nearest dollar)

Activity Code-Activity	*National Objective	CDBG Funds	Matching Funds	Total Funds	Sources of Matching Funds
0630 Planning	LMA	\$27,000	\$9,000	\$36,000	City of Wayne
0180 Total Non-Administration		\$27,000	\$9,000	\$36,000	
0181 General Administration		\$3,000	0	\$3,000	
1000 TOTAL PROGRAM COSTS		\$30,000	\$9,000	\$39,000	

***NATIONAL OBJECTIVE:** Enter single most appropriate national objective code for each activity. List application page number or numbers for source/narrative **documentation: _____**. Refer to Part III Project Description, Item 4 National Objective Impact and Section 2.01.

- LMA:** Benefit Low/Moderate Income Persons on an area basis.
Proposed total number of people benefiting 2375
Number LMI 1260.
Census Data 53.05%
- LMC:** Benefit Low/Moderate Income Persons on a limited clientele basis
- LMH:** Benefit Low/Moderate Income Households. Number of LMI Households _____.
- SBA:** Activities benefiting slums/blight on an area basis
Designated: (year) Re-designated (when available): (year)
- SBS:** Activities benefiting slums/blight on a spot basis
Designated: (year) Re-designated (when available): (year)

Using the activity code number and description provided on the Funding Summary, enter the CDBG National Objective code for each activity (as identified on the Application Form).

ONE PAGE PROJECT SUMMARY

The City of Wayne is requesting \$30,000 of which \$27,000 will be used for Planning within the project LMI Census target area and \$3,000 for general administration of the grant. The total planning project budget is \$39,000 with the local matching funds of \$9,000 to be provided by the City of Wayne for the planning study. CDBG funds will benefit low – and moderate – income people or improve blighted area through the removal of blighted and substandard conditions. The City does not see any persons being displaced as a result of this plan, but will follow their approved plan for minimizing displacement of people as a result of CDBG activities and for assisting persons(s) actually displaced. The grant will also require an additional leverage of \$9,000 within the target area which will provide benefit to LMI persons.

The purpose of the Comprehensive Development (CD) Program Category is to provide flexible investments in housing and infrastructure to carry out a comprehensive strategy of revitalization to stabilize, support, and enhance clearly defined residential neighborhoods with concentrations of persons with lower incomes. The focus is to foster a greater capacity for local community and economic development initiatives that will carry out an enhanced and stable comprehensive revitalization strategy principally benefiting low/moderate income residents of the community.

This project will be Phase I of the Comprehensive Development program which will be the pre-development phase that includes the completion of a pre-development study that will define specific desired outcomes with goals and action steps for improvements to a defined LMI target area. The City will contract with the Northeast Nebraska Economic Development District to conduct the CD Phase I Study. The City will appoint a planning project steering committee which may include City Staff, resource providers, and citizens.

Goals for Wayne CD Phase I Study:

1. Gather public input on the target area needs through community attitude surveys and community meetings.
2. Develop a comprehensive strategy to revitalize the target area which could include public infrastructure, housing investments, parks and recreational needs, child care and senior centers and other CDBG eligible activities.
3. Develop a Wayne CD Phase II project budget with grant funds requested and sources of matching funds. Phase II funding of up to \$700,000 is available for eligible projects.
4. Identify public and private investments planned and proposed for the target area which can serve as leverage for the proposed Phase II projects.

This proposed Wayne CD Phase I Plan will build upon previous successful Wayne Comprehensive Investment and Stabilization (CIS) projects which have included owner occupied housing rehabilitation, rental LMI single family housing rehabilitation, street reconstruction, sidewalk accessibility ramps, demolition of dilapidated properties and water system improvements.

EXHIBIT A
NOTICE OF PUBLIC HEARING ON APPLICATION FOR
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

NOTICE IS HEREBY GIVEN that on September 6, 2016 in the City Council Chambers, the City of Wayne will hold a public hearing concerning an application to the Department of Economic Development for a Community Development Block Grant. This grant is available to local governments for community and economic development activities.

The City of Wayne is requesting \$30,000 of CDBG Comprehensive Development (CD) Phase I funds of which \$27,000 a planning study and \$3,000 for general administration of the grant. Local matching funds of \$9,000 will be provided by the City of Wayne. The total project cost is \$39,000. All activities will be conducted within the LMI target area. All CDBG funds will benefit low-to-moderate income persons in the community. No persons will be displaced as a result of this project. The grant will also require an additional leverage of \$9,000 within the target area and to benefit LMI persons.

The grant application will be available for public inspection at the Wayne City Office. All interested parties are invited to attend this public hearing at which time you will have an opportunity to be heard regarding the grant application. Written testimony will also be accepted at the public hearing scheduled for 5:30 p.m., September 6, 2016 at the Wayne City Council Chambers located at 306 Pearl Street, Wayne, Nebraska 68787. Written comments addressed to Betty A. McGuire, City Clerk, at PO Box 8, Wayne, Nebraska 68787 will be accepted if received on or before September 6, 2016.

Individuals requiring physical or sensory accommodations including interpreter service, Braille, large print, or recorded materials, please contact Betty A. McGuire, City Clerk, at PO Box 8, 306 Pearl Street, Wayne, Nebraska 68787 or at (402) 375-1733 no later than September 5, 2016. Accommodations will be made for persons with disabilities and non-English speaking individuals provided that a one day notice is received by the City of Wayne.

EXHIBIT B
RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN
APPLICATION FOR CDBG FUNDS

Whereas, the City of Wayne Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as amended for Small Cities Community Development Block Grant Program, and,

Whereas, the City of Wayne, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of requesting \$30,000 of CDBG Comprehensive Development (CD) Phase I funds of which \$27,000 a planning study and \$3,000 for general administration of the grant. Local matching funds of \$9,000 will be provided by the City of Wayne. Leverage of \$9,000 is also required. The total project cost is \$39,000. All activities will be conducted within the LMI target area. All CDBG funds will benefit low-to-moderate income persons in the community. No persons will be displaced as a result of this project.

and, NOW, THEREFORE, BE IT RESOLVED BY

The City Council of the City of Wayne that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between City of Wayne and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Signed

Mayor
Title

Date

Exhibit B

EXHIBIT C-1

APPLICANT'S STATEMENT OF ASSURANCES AND CERTIFICATIONS

The City of Wayne (Applicant) hereby assures and certifies to the Nebraska Department of Economic Development regarding an application for Community Development Block Grant (CDBG) funds, the following:

THRESHOLD CERTIFICATIONS

1. There are no significant unresolved audit findings relating to any prior grant award from the federal and/or state government that would adversely affect the administration of this grant.
2. No legal actions are underway or being contemplated that would significantly impact the Applicant's capacity to effectively administer the program, and to fulfill the CDBG program; and
3. No project costs have been incurred that have not been approved in writing by the Department.

FEDERAL COMPLIANCE CERTIFICATIONS

4. It will adopt and follow a residential anti-displacement and relocation assistance plan that will minimize displacement as a result of activities assisted with CDBG funds.
5. It will conduct and administer its programs in conformance with:
 - a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1).
 - b. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.
 - c. The Fair Housing Act of 1988 (42 USC 3601-20) and will affirmatively further fair housing.
6. It will not attempt to recover any capital costs of public improvements assisted in whole or part by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (1) grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than grant funds, or (2) for purposes of assessing any amount against properties owned and occupied by persons of LMI who are not persons of very-low income, the recipient certifies to the state that it lacks sufficient grant funds to comply with the requirements of clause (1).
7. It will comply with all provisions of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws.

CITIZEN PARTICIPATION PLAN CERTIFICATION

8. It certifies that a detailed citizen participation plan is on file which includes:
 - a. Providing and encouraging citizen participation with particular emphasis on participation by lower income persons who are residents of slum and blight areas in which funds are proposed to be used to include target areas as identified in the application.
 - b. Providing citizens with reasonable and timely access to local meetings, information, and records relating to the Applicant's proposed and actual use of CDBG funds.
 - c. Furnishing citizens with information, including but not limited to, the amount of CDBG funds expected to be made available for the current fiscal year, including CDBG funds and anticipated program income; the range of activities that may be undertaken with CDBG funds; the estimated amount of CDBG funds to be used for activities that will meet national objective of benefit to low- and moderate-income people, and the proposed CDBG activities likely to result in displacement and the grantee's anti-displacement and relocation plans.

EXHIBIT C-1

- d. Providing technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals. The level and type of assistance is to be identified within the plan.
- e. Providing for public hearings at different stages of the program, for the purpose of obtaining citizen's views and responding to proposals and questions. The hearings must cover community development and housing needs, development of proposed activities and review of program performance. The hearing to cover community development needs must be held before submission of an application to the state. The hearing on program performance must be held during the implementation of the CDBG awarded grant. There must be reasonable notice of the hearings and they must be held at times and locations convenient to potential or actual beneficiaries, with accommodations for the handicapped. Public hearings are to be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can be expected to participate.
- f. Providing citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in the application to the state and for grants already made, activities that are added to, deleted or substantially changed from the application to the state. Substantially changed is defined in terms of purpose, scope, location or beneficiaries defined by the state established criteria.
- g. Providing citizens the address, phone number and acceptable hours for submitting complaints and grievances and providing timely written responses to written complaints and grievances within 15 working days where practicable.

SPECIAL REQUIREMENTS AND ASSURANCES.

- 9. The Applicant will comply with the administrative requirements of the program, those applicable items in the 1995 Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 (including parts not specifically cited below), and the following laws, regulations and requirements, both federal and state, as the pertain to the design, implementation and administration of the local project, if approved:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS

- ! Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- ! Section 109 of the Housing and Community Development Act of 1974, As Amended
- ! Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- ! Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- ! Executive Order 11246, As Amended
- ! Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS

- ! Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- ! Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35
- ! The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- ! The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- ! Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- ! The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- ! The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- ! The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e))]
- ! The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)
- ! The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- ! The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- ! EPA List of Violating Facilities
- ! HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- ! The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- ! Flood Insurance
- ! Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)
- ! Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)
- ! Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- ! Historic Preservation

EXHIBIT C-1

LABOR STANDARDS AND PROVISIONS

- ! Section 110 of the Housing and Community Development Act of 1974, As Amended
- ! Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- ! Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act., As Amended (48 Stat. 948.40 U.S.C. 276(c), popularly known as The Copeland Act
- ! Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- ! Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS

- * Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- * Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- * Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- * Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116
- * Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS

- * 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards "Cost Principles"
- * 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards "Administrative Requirements"
- * 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- * 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- * Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- * Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)
- * 24 CFR Subtitle A (4-1-98 Edition) – 85 Administrative requirements for grants and cooperative agreements to State, local and federally recognized Indian tribal governments

MISCELLANEOUS.

- * Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

The Applicant hereby certifies that it will comply with the above stated assurances.

Signed _____

Mayor _____
Title _____

_____ Date

February 2015 Revised

EXHIBIT C-2

Citizen Participation Plan

City of Wayne, Nebraska

A. Participation by Citizens

All citizens, including low- and moderate-income citizens, shall be requested and encouraged to participate in the assessment of community issues, problems and needs; the identification of potential solutions; and priority to such issues, problems and needs, as follows:

1. All citizens shall be periodically requested to complete a community needs survey to identify community and neighborhood issues, problems and needs.
2. All citizens shall be notified by publication and posting of all meetings to discuss the identified needs, potential solutions and solution priorities.
3. All citizens, particularly low and moderate-income citizens, shall be afforded the opportunity to serve on various community improvement task forces established by the City of Wayne.

B. Access to Meetings, Information and Records

Notice of public meetings conducted by the City of Wayne at the City Office shall be published or posted within a reasonable number of days prior to such meetings.

Agendas of all such meetings shall be available at the City Office for public inspection.

All meetings where CDBG projects or applications are to be discussed shall be published or posted 6 days prior to such meetings and all information and records concerning such CDBG projects or applications shall be available for public inspection at the City Office.

All meetings will be held at a time and location convenient to potential or actual beneficiaries which will be accessible to all citizens. The building and site will also be accessible to persons with disabilities.

C. Specific CDBG Project Information

All citizens shall be provided with information regarding specific CDBG projects through public meetings and publication of notices which provide all pertinent information regarding any CDBG project including, but not limited to:

1. The amount of CDBG funds expected to be made available to the City of Wayne for the current fiscal year, including CDBG funds and anticipated program income;
2. The specific range of activities that may be undertaken with CDBG funds;
3. The estimated amount of CDBG funds to be used for activities that will meet the national objective of benefit to low-and moderate-income persons, and;
4. A description of any proposed CDBG funded activities that are likely to result in displacement of persons along with the City of Wayne anti-displacement and relocation plans.

D. Provisions for Technical Assistance to Citizens

The City Clerk shall maintain current information of available resources for community improvement efforts and CDBG programs available and provide such information upon request by any citizen or group representing any citizen or group of citizens and the City Clerk shall provide assistance in developing proposals to address issues, problems and needs identified by such citizen or citizens.

E. Public Hearing on CDBG Activities

The City Council shall enact a minimum of two (2) public meetings or hearings to be conducted with regard to any CDBG application. At least one meeting or hearing shall be conducted prior to the submission of any such application and a second public hearing shall be held near the completion of any CDBG funded activity to obtain citizen input, comments or opinions with regard to such application(s) and to program or project performance.

EXHIBIT C-2

The City Clerk shall act as the contact person for all questions, comments or concerns expressed by any citizen with regard to any CDBG program or project and shall forward any such questions, comments or concerns to the City Council at the next regular meeting of the City of Wayne immediately following expression of such questions, comments or concerns. The City Clerk shall also be responsible for transmitting the City of Wayne response to any such question, comment or concerns to the citizen or citizens expressing the same.

F. Needs of Non-English Speaking Citizens

The City Council shall conduct the public hearings in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate, the City Clerk shall arrange for oral or written translation of information regarding any CDBG program, application or project upon request by such non-English speaking persons or representatives of such persons.

G. Compliance/Grievance Procedures

The City Clerk shall post a notice at the City Office that provides name, telephone number, address and office hours of the City of Wayne for citizens who wish to file a complaint or grievance regarding any CDBG program, project or application.

Individuals wishing to submit a complaint or file a grievance concerning activities, of or application for, CDBG funds may submit a written complaint or grievance to the City Clerk

The City Clerk shall present such complaint or grievance to the City Office at the next regular meeting of the City of Wayne, where it be reviewed by the Board members. The individual submitting such complaint or grievance shall be notified of such meeting and shall be given the opportunity to make further comments at such meeting. The City of Wayne shall issue a written response to any complaint or grievance within fifteen (15) days following the meeting at which a response is formulated. Such response shall be mailed to the individual citizen(s) submitting the complaint or grievance by the City Clerk to the last known address of said citizen(s).

In the event that the nature of the complaint or grievance is determined to be a matter requiring immediate action, a special meeting of the City of Wayne shall be called to review the matter within ten (10) days of receipt of such complaint or grievance.

H. Adoption

This Citizen Participation Plan is hereby adopted by action of the City Council of the City of Wayne, Nebraska.

Ken Chamberlain, Mayor

Attest: Betty A McGuire, City Clerk

Date

EXHIBIT D

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

The City of Wayne will replace all occupied and vacant occupiable low-moderate-income dwelling units demolished or converted to a use other than as low-moderate-income housing as a direct result of activities assisted with Community Development Block Grant (CDBG) funds provided under the Housing and Community Development Act of 1974, as amended.

All replacement housing will be provided within three (3) years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the City of Wayne will make public and submit to DED the following information in writing:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low-moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units; and
6. The basis for concluding that each replacement dwelling unit will remain a low-moderate-income dwelling unit for at least ten (10) years from the date of initial occupancy.

The City of Wayne will provide relocation assistance, according to either the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) or 24 CFR 570.496a(c) to each low/moderate-income family displaced by the demolition of housing, or the conversion of a low-moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the CDBG program, the City of Wayne will take the following steps to minimize the displacement of persons from their homes:

1. Maintain current data on the occupancy of houses in areas targeted for CDBG assistance.
2. Review all activities prior to implementation to determine the effect, if any, on occupied residential properties.
3. Include consideration of alternate solutions when it appears an assisted project will cause displacement, if implemented.
4. Require private individuals and businesses to consider other alternatives to displacement causing activities, if they are requesting CDBG assistance.

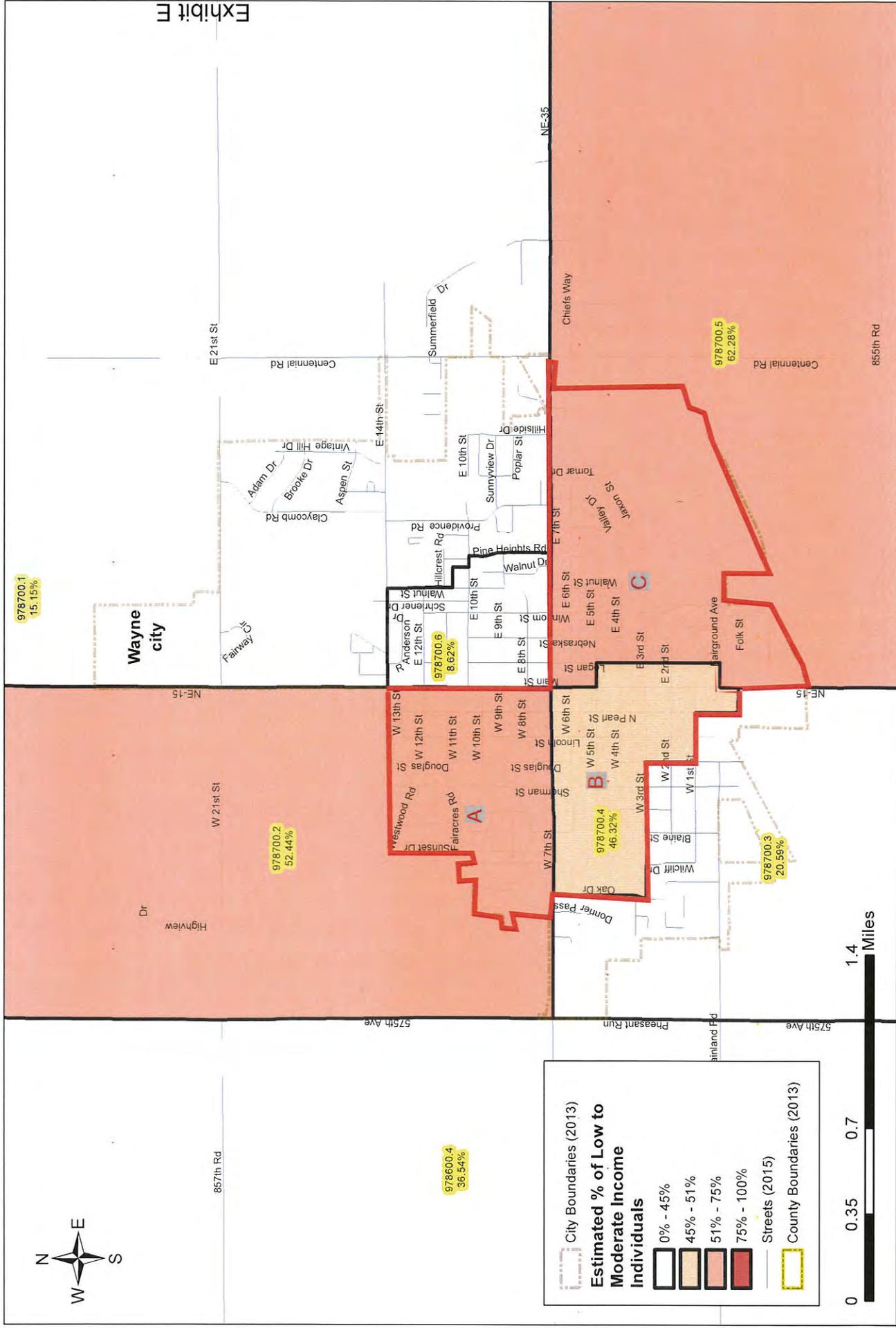
Signed _____

Title Mayor _____

Date _____

EXHIBIT D

Estimated Percentage of Low to Moderate Income Individuals in Wayne city



Sources: U.S. Department of Housing and Urban Development FY 2015 LMISD by State - All Block Groups, Based on 2006-2010 American Community Survey
 ESRI Business Analyst 2013-15 | Navteq 2015 Q1

Wayne CD target A-C - 53.05% LMI (see attached data)

Area Identifier	GEOID	geoname	stusab	countyname	state	county	tract	blkgrp	low	lowrmod	LMIM	lowrmoduniv	lowrmod_pct
A	311799787002	Block Group 2, Census Tract 9787, Wayne County, Nebraska	NE	Wayne County	31	179	978700	2	500	590	725	1125	0.5244
B	311799787004	Block Group 4, Census Tract 9787, Wayne County, Nebraska	NE	Wayne County	31	179	978700	4	280	315	350	680	0.4632
C	311799787005	Block Group 5, Census Tract 9787, Wayne County, Nebraska	NE	Wayne County	31	179	978700	5	225	355	515	570	0.6228
Sum of the combined target area (A-C)										1260		2375	0.5305

Data Source: <https://www.hudexchange.info/manage-a-program/acs-low-mod-summary-data-block-groups-places/>

EXHIBIT K

WAIVER OF PROCUREMENT PROCESS DUE TO OFFICIALS OF THE GRANTEE ACTING IN THEIR OFFICIAL CAPACITY

The _____ City of Wayne _____ hereby assures and certifies to the Nebraska Department of Economic Development (the Department) regarding an application for Community Development Block Grant (CDBG) funds, the following:

1. _____ City of Wayne _____ has reviewed 24 CFR Part 85 Chapter 36 which sets forth the standards that are applicable to procurement for Federal grants and cooperative agreements and sub-awards to the State, local and Indian tribal governments.
2. In each of the last three consecutive years, _____ (Applicant) _____, has appointed _____ (Appointee) _____ to act in the official capacity of _____ (Position) _____.
3. _____ (Applicant) _____ can document three consecutive years of annual appointment with minutes of annual reorganization meeting. Documentation attached.
4. The project activity directly relates to the official capacity of the appointee as described below and providing any related supplementary documentation to capacity (e.g. Development District will provide planning services, statement of capacity to compete services attached):

The City of Wayne is a member of the Northeast Nebraska Economic Development District (NENEDD) and has an inter-local agreement. The City may contract with NENEDD to complete this project. If the City decides not to use the services of NENEDD, the City will procure for another qualified planner using the Procurement Procedures outlined in Chapter 8 of the Nebraska CDBG Program Administrative Manual. If the City contracts with NENEDD for planning services and a sub-contractor is needed during the planning phase, NENEDD will procure using the Procurement Procedures outlined in Chapter 8 of the Nebraska CDBG Program Administrative Manual.

The Applicant hereby certifies that it will comply with the above stated assurances.

Signed _____

Ken Chamberlain, Mayor

Date _____

EXHIBIT K-1

EXHIBIT L

FFATA REPORTING FORM/CERTIFICATION – CDBG & CDBG HOUSING

The Federal Funding Accountability and Transparency Act (FFATA) seeks to provide the public with greater access to Federal spending information. Due to FFATA requirements, units of general local government are required to provide the following information, which may be used by the Department of Economic Development (“Department”) to comply with federal reporting requirements. Please fill out the following form accurately and completely, have it signed by an authorized official, and submit to the Department along with your application for funding.

Name of Applicant: City of Wayne			
Applicant Address: PO Box 8			
City: Wayne	State: NE	Zip: 68787	Congressional District: 3
Applicant DUNS number: 031172505			
Principal Place of Performance of Proposed Project: Wayne, NE			
City: Wayne	State: NE	Zip: 68787	Congressional District: 3
<p>CDBG (CIS) Phase II, Year Two funds of \$130,000 which \$31,500 will be for demolition of four structures, \$75,000 for single family owner-occupied rehabilitation of three houses, \$6,000 for housing management, \$4,500 for risk assessment/testing, and \$13,000 for general administration of the grant. Local matching funds of \$36,000 will be provided by the City of Wayne to make water system improvements. The total project cost is \$166,000. All activities will be conducted within the target area (southeastern quadrant) reviewed through the CIS Phase I Needs Assessment/Strategy. All CDBG funds will benefit low-to-moderate income persons in the community. No persons will be displaced as a result of this project.</p>			
<p>If certain conditions are met, Applicant must provide names and total compensation of Applicant's top five highly compensated Executives to the Department. Please answer question number 1, and follow the instructions. If directed to answer question 2, please answer question 2 and follow instructions.</p>			
<p>1. In Applicant's previous fiscal year, did Applicant receive (a) 80 percent or more of Applicant's annual gross revenues in U.S. federal contracts and subcontracts and other federal financial assistance subject to the Transparency Act, as defined in 2 C.F.R. 170.320; AND (b) \$25,000,000 or more in annual gross revenues from contracts and subcontracts and other federal financial assistance subject to the Transparency Act, as defined in 2 C.F.R. 170.320?</p> <p>Yes <input type="checkbox"/> If yes, answer question 2 below. No <input checked="" type="checkbox"/> If no, stop, you are not required to report names and compensation. Please sign and submit form to the Department.</p>			
<p>2. Does the public have access to information about the compensation of Applicant's senior executives through periodic reports filed under section 13(a) or 15(d) of the Security Exchange Act of 1934 (15 U.S.C. 78(m)(a), 78o(d)), or section 6104 of the Internal Revenue Code of 1986?</p> <p>Yes <input type="checkbox"/> If yes, stop, you are not required to report names and compensation. Please sign and submit form to the Department. No <input type="checkbox"/> If no, you are required to report names and compensation. Please fill out the remainder of this form.</p>			
<p>Please provide the names and Total Compensation of the top five most highly compensated Executives in the space below.</p> <p>(NOTE: Executive means officers, managing partners, or any other employees in management positions. Total Compensation means the cash and noncash dollar value earned by the Executive during the Applicant's preceding fiscal year and includes salary and bonus, awards of stock, stock options, and stock appreciation rights; earnings for services under non-equity incentive plans, change in pension value, above market earnings on deferred compensation which is not tax-qualified; and other compensation exceeding \$10,000 as defined in Appendix A to 2 C.F.R. Part 170.)</p>			
Name:		Total Compensation:	
Name:		Total Compensation:	
Name:		Total Compensation:	
The Applicant certifies that the information contained on this form is true and accurate. Signed: _____ Title: <u>Mayor</u> Date: _____		DED USE _____ _____ _____	

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WAYNE, CITY OF (INC)

DUNS: 031172505 CAGE Code: 609K8
Status: Active

306 N PEARL ST
WAYNE, NE, 68787-1959,
UNITED STATES

Expiration Date: 11/15/2016

Purpose of Registration: Federal Assistance Awards Only

Entity Overview

Entity Registration Summary

Name: WAYNE, CITY OF (INC)
Business Type: US Local Government
Last Updated By: Nancy Braden
Registration Status: Active
Activation Date: 11/16/2015
Expiration Date: 11/15/2016

Exclusion Summary

Active Exclusion Records? No



Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.

**FOUR FACTOR ANALYSIS
ASSESSING
LIMITED ENGLISH PROFICIENCY
AND
LANGUAGE ASSISTANCE PLAN**

**PREPARED BY
City of Wayne**

**FOR
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

EXHIBIT O-1

A. POLICY STATEMENT

It is the policy of the City of Wayne to take reasonable steps to provide meaningful access to its programs and activities for persons with Limited English Proficiency (LEP). The City of Wayne's policy is to ensure that staff will communicate effectively with LEP individuals, and LEP individuals will have access to important programs and information. City of Wayne is committed to complying with federal requirements in providing free meaningful access to its programs and activities for LEP persons.

B. HISTORY

Title VI of the Civil Rights Act of 1964 is the federal law which protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who have Limited English Proficiency can effectively participate in, or benefit from, federally assisted programs may violate Title VI's prohibition against national origin discrimination.

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter.

On August 11, 2000, Executive Order 13166, titled, "Improving Access to Services by Persons with Limited English Proficiency," was issued. Executive Order 13166 requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP cannot fully and equally participate in or benefit from those programs and activities. Section 2 of the Executive Order 13166 directs each federal department or agency "to prepare a plan to improve access to...federally conducted programs and activities by eligible LEP persons...."

C. DEFINITIONS

Beneficiary: The ultimate consumer of HUD programs and receives benefits from a HUD Recipient or Sub-recipient.

Limited English Proficient Person (LEP): Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English because of national origin.

Language Assistance Plan (LAP): A written implementation plan that addresses identified needs of the LEP persons served.

Recipient: Any political subdivision of the State of Nebraska, or an eligible nonprofit organization, to whom Federal financial assistance is extended for any program or activity, or who otherwise participates in carrying out such program or activity, including any successor, assign or transferee thereof, but such term does not include any Beneficiary under any such program.

Sub-recipient: Any public or private agency, institution, organization, or other entity to whom Federal financial assistance is extended, through another Recipient, for any program or activity, or who otherwise participates in carrying out such program or activity but such term does not include any Beneficiary under any such program.

Vital Document: Any document that is critical for ensuring meaningful access to the Recipient's major activities and programs by Beneficiaries generally and LEP persons specifically.

D. FRAMEWORK & METHODOLOGY

This Four Factor Analysis is the first step in providing meaningful access to federally funded programs for LEP persons. The Four Factor Analysis completed by City of Wayne addresses the following:

1. The number or proportion of LEP persons eligible to be serviced or likely to be encountered by City of Wayne;
2. The frequency with which LEP persons using a particular language come in contact with City of Wayne;
3. The nature and importance of the City of Wayne program or activity provided to the individual's life; and
4. The resources available to City of Wayne, and costs associated with providing LEP services.

E. FOUR FACTOR ANALYSIS

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by City of Wayne.

The 2010-2014 American Community Survey 5 year estimates indicate that out of the 5286 residents 170 or 3.2 % of Spanish speaking persons report speaking English less than "very well". 23 or less than 1% of Scandinavian speaking persons reported speaking English less than "very well. 10 or less than 1% of French speaking persons reported speaking English less than "very well. 15 or less than 1% of African speaking persons reported speaking English less than "very well. No other language groups reported speaking English less than "very well". The City estimates that the number or proportion of LEP persons encountered will be very low.

2. The frequency with which LEP persons using a particular language come in contact with City of Wayne.

Due to the low number and proportion of LEP persons in the City of Wayne and the lack of LEP business and property owners, the frequency of persons using a particular language coming in to contact with the City would be very low.

3. The nature and importance of the City of Wayne program or activity provided to the individual's life.

All LEP persons would have the opportunity to participate in public meetings explaining the impact that the project would have. The City estimates that the number or proportion of LEP persons encountered will be very low.

4. The resources available to City of Wayne, and costs associated providing LEP services.

Due to low frequency of translation requests, the City of Wayne currently does not have dedicated resources to provide oral and vital document translation assistance.

As a result of the Four Factor Analysis, City of Wayne has determined a Language Assistance Plan is needed: NO

Effective 8/5/2016

City of Wayne
2016-17 Budget Adjustments to Balance Budgets

<u>General Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
100-101-312000	Property Taxes	\$ 719,501	733,500	\$ 13,999
100-521-435001	Transfers in T&A Police Retirement	\$ 31,250	\$ 47,785	\$ 16,535
100-521-435003	Funding from 911 Wireless	\$ 38,000	\$ -	\$ (38,000)
100-521-24000	Police contractual services	\$ 18,000	\$ 10,000	\$ (8,000)
100-521-83012	Radio Console Upgrades	\$ 226,000	\$ 192,000	\$ (34,000)
100-521-54001	Pol Misc Equipment	\$ 9,800	\$ 4,800	\$ (5,000)
100-522-58000	Fire Maint Bldg & Ground	\$ 3,050	\$ 10,500	\$ 7,450
100-542-83000	Rec. Field Drag	0	16,000	\$ 16,000
100-561-37001	CONGREGATE/MOW TRANSPORT FEE		\$ 1,700	\$ 1,700
100-571-02000	Library Temporary Wages	\$ 32,654	\$ 37,702	\$ 5,048
100-571-05000	Library Taxes	\$ 11,659	\$ 12,045	\$ 386
100-571-82000	Libr Imp-Other than bldg	\$ 10,000	\$ -	\$ (10,000)
100-582-84001	2200' Concrete Trail Phae II	\$ 16,500	\$ -	\$ (16,500)
100-582-80003	Rubber Roof Libr/Sr Center		Change title to Upgrades to Libr/Sr Center	
100-590-98000	General Fund Reserve	\$ 616,013	\$ 637,464	\$ 21,451
<u>Street Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
114-150-435003	Transfer In General For Trail	\$ 666,500	\$ 620,000	\$ (46,500)
114-531-83092	Mini Excavator	\$ 45,000	\$ 11,250	\$ (33,750)
114-531-84141	Sidewalk to Bomgaars	\$ 850,000		\$ (850,000)
114-531-98000	Public Works Reserve	\$ 343,439	\$ 1,197,189	\$ 853,750
<u>KENO Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
256-256-69000	KENO Projects	\$ 20,802	\$ 20,905	\$ 103
<u>Wayne Reveolving Loan Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
340-517-37000	WRLF Community Development	\$ 267,431	\$ 462,696	\$ 195,265
<u>Electric Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
420-603-83092	Mini Excavator	\$ -	\$ 11,250	\$ 11,250
420-609-98000	Electric Reserves	\$ 4,103,579	\$ 4,092,329	\$ (11,250)
<u>Water Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
430-620-83092	Mini Excavator	\$ -	\$ 11,250	\$ 11,250
430-629-98000	Water Reserves	\$ 19,065	\$ 7,815	\$ (11,250)
<u>Sewer Fund</u>		Proposed 2017	Corrected BUDGET 2017	Difference
431-611-50000	Admin Franchise Fee	\$ 68,484	\$ 73,598	\$ 5,114
431-613-83092	Mini Excavator	\$ -	\$ 11,250	\$ 11,250
431-619-98000	Sewer Reserves	\$ 1,184,259	\$ 622,269	\$ (561,990)

CITY OF WAYNE, NEBRASKA
HISTORY OF PROPERTY TAX RATES, ASKINGS AND VALUATIONS

Tax Year	Total Tax Rate	Valuation	General Fund			Debt Service Fund			Airport Fund			Airport Debt		
			Tax Rate	Asking	Tax Rate	Asking	Tax Rate	Asking	Tax Rate	Asking	Tax Rate	Asking	Tax Rate	Asking
1984	0.719800	\$ 73,302,455	0.516400	\$ 378,534	0.131800	\$ 96,613	0.071600	\$ 52,485						
1985	0.774900	\$ 73,724,560	0.537700	\$ 396,417	0.155400	\$ 114,568	0.081800	\$ 60,307						
1986	0.705200	\$ 75,302,145	0.500100	\$ 376,586	0.125700	\$ 94,655	0.079400	\$ 59,790						
1987	0.678900	\$ 75,373,415	0.479600	\$ 361,491	0.119900	\$ 90,373	0.079400	\$ 59,846						
1988	0.699000	\$ 73,207,880	0.493800	\$ 361,501	0.123400	\$ 90,339	0.081800	\$ 59,884						
1989	0.689700	\$ 74,189,565	0.487300	\$ 361,526	0.121800	\$ 90,363	0.080600	\$ 59,797						
1990	0.692200	\$ 76,033,225	0.494500	\$ 375,984	0.118900	\$ 90,404	0.078800	\$ 59,914						
1991	0.697800	\$ 77,900,005	0.501900	\$ 381,426	0.116100	\$ 88,126	0.079800	\$ 58,094						
1992	0.691700	\$ 82,517,065	0.497500	\$ 400,497	0.115000	\$ 92,532	0.079200	\$ 60,998						
1993	0.719000	\$ 86,285,350	0.526700	\$ 424,729	0.120500	\$ 97,159	0.071800	\$ 57,762						
1994	0.667300	\$ 93,953,215	0.495400	\$ 454,038	0.108100	\$ 99,005	0.063800	\$ 57,762						
1995	0.632700	\$ 106,554,655	0.466700	\$ 485,070	0.102000	\$ 105,965	0.064000	\$ 63,629						
1996	0.629610	\$ 112,844,325	0.472060	\$ 519,705	0.098010	\$ 107,900	0.059540	\$ 65,538						
1997	0.592100	\$ 110,602,636	0.449685	\$ 485,233	0.091375	\$ 98,598	0.051040	\$ 56,452						
1998	0.540311	\$ 112,407,473	0.423312	\$ 475,834	0.090311	\$ 101,516	0.026689	\$ 30,000						
1999	0.546587	\$ 118,123,827	0.424554	\$ 501,500	0.086773	\$ 102,500	0.035259	\$ 41,650						
2000	0.480231	\$ 133,415,715	0.368004	\$ 490,975	0.069145	\$ 92,250	0.043083	\$ 57,479						
2001	0.527248	\$ 136,039,199	0.414289	\$ 563,596	0.067811	\$ 92,250	0.045147	\$ 61,418						
2002	0.528371	\$ 137,403,462	0.415171	\$ 570,460	0.067138	\$ 92,250	0.046061	\$ 63,290						
2003	0.537718	\$ 143,051,488	0.421317	\$ 602,700	0.071653	\$ 102,500	0.044748	\$ 64,013						
2004	0.522948	\$ 145,381,877	0.400815	\$ 582,713	0.070504	\$ 102,500	0.051628	\$ 75,058						
2005	0.501678	\$ 148,536,632	0.384366	\$ 570,925	0.069007	\$ 102,500	0.048305	\$ 71,750						
2006	0.508200	\$ 152,334,731	0.390259	\$ 594,500	0.070650	\$ 107,625	0.047291	\$ 72,040						
2007	0.504770	\$ 156,618,741	0.401309	\$ 628,525	0.057464	\$ 90,000	0.045997	\$ 72,040						
2008	0.457923	\$ 172,641,653	0.364063	\$ 628,525	0.052131	\$ 90,000	0.041728	\$ 72,040						
2009	0.454550	\$ 175,685,113	0.357757	\$ 628,525	0.051228	\$ 90,000	0.034152	\$ 60,000	0.011414	\$ 20,052				
2010	0.452198	\$ 176,598,938	0.354631	\$ 626,275	0.052237	\$ 92,250	0.033975	\$ 60,000	0.011355	\$ 20,052				
2011	0.452198	\$ 179,315,556	0.363583	\$ 651,961	0.045729	\$ 82,000	0.034576	\$ 62,000	0.008309	\$ 14,900				
2012	0.452963	\$ 180,803,972	0.360590	\$ 651,961	0.051022	\$ 92,250	0.034534	\$ 62,440	0.006816	\$ 12,324				
2013	0.457523	\$ 185,504,295	0.358051	\$ 664,200	0.044204	\$ 82,000	0.034501	\$ 64,000	0.020767	\$ 38,524				
2014	0.450816	\$ 191,443,581	0.355509	\$ 680,600	0.042833	\$ 82,000	0.033424	\$ 64,000	0.019050	\$ 36,469				
2015	0.450295	\$ 201,911,956	0.358315	\$ 723,481	0.050765	\$ 102,500	0.034015	\$ 68,680	0.007201	\$ 14,539				
2016 est	0.449995	\$ 208,729,770	0.360197	\$ 751,838	0.049107	\$ 102,500	0.033726	\$ 70,397	0.006965	\$ 14,539				

RESOLUTION NO. 2016-60

A RESOLUTION TO ADOPT THE 2016-2017 BUDGET FOR THE CITY OF WAYNE.

WHEREAS, LB 989 changed budget limitation provisions regarding restricted funds for political subdivisions; and

WHEREAS, LB 1114 established levy limits for local governments; and

WHEREAS, the 2016-2017 budget document meets the requirements of the legislative laws; and

WHEREAS the Mayor and Council of the City of Wayne, Nebraska, has conducted a public hearing as prescribed by law and heard and considered comments concerning the 2016-2017 budget for the City of Wayne; and

WHEREAS, the Mayor and Council of the City of Wayne, Nebraska, hereby finds and determines that it is in the best interest of the City that the 2016-2017 budget be adopted as the "Official Budget" for the fiscal year 2016-2017.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the 2016-2017 budget of the City of Wayne, Nebraska, be and is hereby adopted.

PASSED AND APPROVED this 6th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-61

A RESOLUTION APPROVING FINAL PROPERTY TAX REQUEST FOR FY2016-2017.

WHEREAS, Nebraska Revised Statute 77-16-01.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the City of Wayne passes, by a majority vote, a Resolution or Ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interests of the City of Wayne that the property tax request for the current year be different than the property tax request for the prior year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that:

1. The 2016-2017 property tax request be set at \$854,337.50; said calculated levy being \$.409303; and
2. A copy of this Resolution be certified and forwarded to the County Clerk prior to October 1, 2016.

PASSED AND APPROVED this 6th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2016-14

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That after complying with all procedures required by law, the budget presented and set forth in the budget statement is hereby approved as the Annual Appropriation Bill for the fiscal year beginning October 1, 2016, through September 30, 2017. All sums of money contained in the budget statement, as fund totals, are hereby appropriated for the necessary expenses and liabilities of the City of Wayne. A copy of the budget document shall be forwarded, as provided by law, to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Wayne County, Nebraska, for use by the levying authority.

Section 2. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

PASSED AND APPROVED this 6th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA

By: _____
Mayor

ATTEST:

City Clerk

Contractor's Application for Payment No. 14

Application Period: 7/26/16 - 8/26/16 From: Christiansen Construction Co. LLC, PO Box 339, Pender, NE 68047 (Contractor): Contract: 2016 Wayne Aquatic Center Wayne, Nebraska Contractor's Project No.: 15037	Application Date: 8/26/2016 Via (Engineer): JEO Consulting Group, Inc. 11717 Burr St., Ste. 210 Omaha, NE 68154 Engineer's Project No.: 141213
To: City of Wayne 306 Pearl St., PO Box 8 Wayne, NE 68787-0008 (Owner): Project: 2016 Wayne Aquatic Center Wayne, Nebraska Owner's Contract No.:	Contractor's Project No.: 15037

Application For Payment Change Order Summary

Approved Change Orders	Number	Additions	Deductions
	2	\$359.00	
	3	\$1,169.00	
	4		\$1,075.00
	5		\$16,964.94
TOTALS		\$1,528.00	\$18,039.94
NET CHANGE BY CHANGE ORDERS		-\$16,511.94	

1. ORIGINAL CONTRACT PRICE..... \$ 52,659,000.00
2. Net change by Change Orders..... \$ -16,511.94
3. Current Contract Price (Line 1 ± 2)..... \$ 52,642,488.06
4. TOTAL COMPLETED AND STORED TO DATE
(Column F total on Progress Estimates)..... \$ 52,634,488.06
5. RETAINAGE:
 - a. Work Completed..... \$ 550,000.00
 - b. Stored Material..... \$
 - c. Total Retainage (Line 5.a + Line 5.b)..... \$ 550,000.00
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c)..... \$ 52,584,488.06
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)..... \$ 52,317,214.70
8. AMOUNT DUE THIS APPLICATION..... \$ **267,273.36**
9. BALANCE TO FINISH, PLUS RETAINAGE
(Column H total on Progress Estimates + Line 5.c above)..... \$ 558,000.00

Contractor's Certification
 The undersigned Contractor certifies, to the best of its knowledge, the following:
 (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;
 (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances); and
 (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: Date: 8/26/2016

Payment of: \$ 267,273.36
 (Line 8 or other - attach explanation of the other amount)

is recommended by: Dale S. Bahr (Engineer) Date: 8-30-2016
 JEO Consulting Group, Inc.

Payment of: \$ 267,273.36
 (Line 8 or other - attach explanation of the other amount)

is approved by: _____ (Owner)
 City of Wayne, NE

Approved by: _____ (Date)
 Funding or Financing Entity (if applicable) _____ (Date)

CONTINUATION PAGE

PROJECT: 15037
 2016 Wayne Aquatic Center
 APPLICATION #: 14
 DATE OF APPLICATION: 08/26/2016
 PERIOD THRU: 08/26/2016
 PROJECT #s:

Payment Application containing Contractor's signature is attached.

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	% COMP. (G / C)					
1	Bond & Insurance	\$40,298.00	\$40,298.00	\$0.00	\$0.00	\$0.00	\$40,298.00	\$0.00	
2	General Conditions	\$120,884.00	\$120,884.00	\$0.00	\$0.00	\$0.00	\$120,884.00	\$0.00	
3	Demobilization	\$8,560.00	\$1,560.00	\$7,000.00	\$0.00	\$0.00	\$8,560.00	\$0.00	
4	Submittal Exchange	\$3,395.00	\$3,395.00	\$0.00	\$0.00	\$0.00	\$3,395.00	\$0.00	
5	Site Demo, Stripping, Hauling	\$48,705.00	\$48,705.00	\$0.00	\$0.00	\$0.00	\$48,705.00	\$0.00	
6	Excavation	\$86,780.00	\$86,780.00	\$0.00	\$0.00	\$0.00	\$86,780.00	\$0.00	
7	Grading	\$31,282.00	\$26,282.00	\$5,000.00	\$0.00	\$0.00	\$31,282.00	\$0.00	
8	SWPPP (Erosion Control)	\$17,175.00	\$17,175.00	\$0.00	\$0.00	\$0.00	\$17,175.00	\$0.00	
9	Geotextile Filter Fabric	\$4,522.00	\$4,522.00	\$0.00	\$0.00	\$0.00	\$4,522.00	\$0.00	
10	Sub Base	\$20,627.00	\$20,627.00	\$0.00	\$0.00	\$0.00	\$20,627.00	\$0.00	
11	Aggregate Backfill	\$70,216.00	\$70,216.00	\$0.00	\$0.00	\$0.00	\$70,216.00	\$0.00	
12	Gran. Fill under Decks/Sidewalks	\$7,266.00	\$7,266.00	\$0.00	\$0.00	\$0.00	\$7,266.00	\$0.00	
13	Underdrains	\$5,070.00	\$5,070.00	\$0.00	\$0.00	\$0.00	\$5,070.00	\$0.00	
14	Site Utilities	\$175,589.00	\$175,589.00	\$0.00	\$0.00	\$0.00	\$175,589.00	\$0.00	
15	Fences, Gates, Rope Barrier	\$32,461.00	\$32,461.00	\$0.00	\$0.00	\$0.00	\$32,461.00	\$0.00	
16	Seeding	\$5,748.00	\$0.00	\$5,748.00	\$0.00	\$0.00	\$5,748.00	\$0.00	
17	Concrete Forming Pool	\$115,725.00	\$115,725.00	\$0.00	\$0.00	\$0.00	\$115,725.00	\$0.00	
18	Concrete Placing Pool	\$182,300.00	\$182,300.00	\$0.00	\$0.00	\$0.00	\$182,300.00	\$0.00	
19	Concrete Forming Surge & Pump	\$36,110.00	\$36,110.00	\$0.00	\$0.00	\$0.00	\$36,110.00	\$0.00	
20	Concrete Placing Surge & Pump	\$28,236.00	\$28,236.00	\$0.00	\$0.00	\$0.00	\$28,236.00	\$0.00	
21	Misc. Concrete Form & Pour	\$38,571.00	\$38,571.00	\$0.00	\$0.00	\$0.00	\$38,571.00	\$0.00	
22	Pool Deck Form & Pour	\$65,413.00	\$65,413.00	\$0.00	\$0.00	\$0.00	\$65,413.00	\$0.00	
23	Pool Sidewalk Form & Pour	\$31,196.00	\$21,196.00	\$10,000.00	\$0.00	\$0.00	\$31,196.00	\$0.00	
24	FB Foundations	\$14,045.00	\$14,045.00	\$0.00	\$0.00	\$0.00	\$14,045.00	\$0.00	
25	Reinforcing Steel	\$71,545.00	\$71,545.00	\$0.00	\$0.00	\$0.00	\$71,545.00	\$0.00	
26	Exp. Joints, Waterstop	\$2,185.00	\$2,185.00	\$0.00	\$0.00	\$0.00	\$2,185.00	\$0.00	
27	Grouting Pool Walls	\$6,269.00	\$6,269.00	\$0.00	\$0.00	\$0.00	\$6,269.00	\$0.00	
28	Masonry	\$48,494.00	\$46,494.00	\$2,000.00	\$0.00	\$0.00	\$48,494.00	\$0.00	
29	Struct. Steel, Misc. Metals	\$22,030.00	\$22,030.00	\$0.00	\$0.00	\$0.00	\$22,030.00	\$0.00	
	SUB-TOTALS	\$1,340,697.00	\$1,310,949.00	\$29,748.00	\$0.00	\$0.00	\$1,340,697.00	\$0.00	

CONTINUATION PAGE

Payment Application containing Contractor's signature is attached.

PROJECT: 15037
2016 Wayne Aquatic Center

APPLICATION #: 14
DATE OF APPLICATION: 08/26/2016
PERIOD THRU: 08/26/2016
PROJECT #s:

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
30	Rough Carpentry	\$19,701.00	\$19,701.00	\$0.00	\$0.00	\$0.00	\$19,701.00	\$0.00	
31	Cabinets	\$2,406.00	\$2,406.00	\$0.00	\$0.00	\$0.00	\$2,406.00	\$0.00	
32	Countertop	\$1,728.00	\$1,728.00	\$0.00	\$0.00	\$0.00	\$1,728.00	\$0.00	
33	Metal Roofing	\$40,434.00	\$0.00	\$38,434.00	\$0.00	\$0.00	\$38,434.00	\$2,000.00	
34	Joint Sealants	\$10,588.00	\$0.00	\$4,588.00	\$0.00	\$0.00	\$4,588.00	\$6,000.00	
35	Doors, Frames, Hardware	\$2,631.00	\$2,631.00	\$0.00	\$0.00	\$0.00	\$2,631.00	\$0.00	
36	Coiling Overhead Door	\$3,780.00	\$3,780.00	\$0.00	\$0.00	\$0.00	\$3,780.00	\$0.00	
37	Paints & Coatings	\$38,434.00	\$34,434.00	\$4,000.00	\$0.00	\$0.00	\$38,434.00	\$0.00	
38	Specialties	\$734.00	\$734.00	\$0.00	\$0.00	\$0.00	\$734.00	\$0.00	
39	Signage, Plaques	\$1,948.00	\$1,948.00	\$0.00	\$0.00	\$0.00	\$1,948.00	\$0.00	
40	Aluminum Canopy	\$20,465.00	\$20,465.00	\$0.00	\$0.00	\$0.00	\$20,465.00	\$0.00	
41	Stainless Steel Gutters	\$94,111.00	\$94,111.00	\$0.00	\$0.00	\$0.00	\$94,111.00	\$0.00	
42	Main Drains, Hydro. Relief Valves	\$6,656.00	\$6,656.00	\$0.00	\$0.00	\$0.00	\$6,656.00	\$0.00	
43	Pumps, Strainers, VFDs, Gauges	\$83,776.00	\$83,776.00	\$0.00	\$0.00	\$0.00	\$83,776.00	\$0.00	
44	Ladders, Stanchions, Rails etc.	\$20,357.00	\$20,357.00	\$0.00	\$0.00	\$0.00	\$20,357.00	\$0.00	
45	ADA Lift	\$4,813.00	\$4,813.00	\$0.00	\$0.00	\$0.00	\$4,813.00	\$0.00	
46	Diving Towers & Boards	\$59,100.00	\$59,100.00	\$0.00	\$0.00	\$0.00	\$59,100.00	\$0.00	
47	Pool Vacuum	\$1,781.00	\$1,781.00	\$0.00	\$0.00	\$0.00	\$1,781.00	\$0.00	
48	Filtration Equipment	\$42,550.00	\$42,550.00	\$0.00	\$0.00	\$0.00	\$42,550.00	\$0.00	
49	Chem. Feed/Disinfect. Equip.	\$7,008.00	\$7,008.00	\$0.00	\$0.00	\$0.00	\$7,008.00	\$0.00	
50	FRP Chem Storage Bldgs.	\$29,482.00	\$29,482.00	\$0.00	\$0.00	\$0.00	\$29,482.00	\$0.00	
51	Deck Trench Drains	\$10,300.00	\$10,300.00	\$0.00	\$0.00	\$0.00	\$10,300.00	\$0.00	
52	Shade Structures	\$28,192.00	\$28,192.00	\$0.00	\$0.00	\$0.00	\$28,192.00	\$0.00	
53	Pool Heaters	\$18,919.00	\$18,919.00	\$0.00	\$0.00	\$0.00	\$18,919.00	\$0.00	
54	Water Slide	\$84,361.00	\$84,361.00	\$0.00	\$0.00	\$0.00	\$84,361.00	\$0.00	
55	Zero Depth Play Features	\$93,903.00	\$93,903.00	\$0.00	\$0.00	\$0.00	\$93,903.00	\$0.00	
56	Process Piping, Valves, Supports	\$389,595.00	\$389,595.00	\$0.00	\$0.00	\$0.00	\$389,595.00	\$0.00	
57	Plumbing (Drinking Fount.)	\$4,200.00	\$4,200.00	\$0.00	\$0.00	\$0.00	\$4,200.00	\$0.00	
58	Electrical	\$196,350.00	\$196,350.00	\$0.00	\$0.00	\$0.00	\$196,350.00	\$0.00	
	SUB-TOTALS	\$2,659,000.00	\$2,574,230.00	\$76,770.00	\$0.00	\$0.00	\$2,651,000.00	\$8,000.00	

CONTINUATION PAGE

PROJECT: 15037
 2016 Wayne Aquatic Center
 APPLICATION #: 14
 DATE OF APPLICATION: 08/26/2016
 PERIOD THRU: 08/26/2016
 PROJECT #s:

Payment Application containing Contractor's signature is attached.

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
59	Change Order No. 2	\$359.00	\$359.00	\$0.00	\$0.00	\$0.00	\$359.00	\$0.00	
60	Change Order No. 3	\$1,169.00	\$1,169.00	\$0.00	\$0.00	\$0.00	\$1,169.00	\$0.00	
61	Change Order No. 4	(\$1,075.00)	(\$1,075.00)	\$0.00	\$0.00	\$0.00	(\$1,075.00)	\$0.00	
62	Change Order No. 5	(\$16,964.94)	\$0.00	(\$16,964.94)	\$0.00	\$0.00	(\$16,964.94)	\$0.00	
TOTALS		\$2,642,488.06	\$2,574,683.00	\$59,805.06	\$0.00	\$2,634,488.06	99%	\$8,000.00	



ENGINEERING ■ ARCHITECTURE ■ SURVEYING ■ PLANNING

August 29, 2016

Lowell Johnson, City Administrator
City of Wayne
PO Box 8
Wayne, NE 68787

RE: Wayne, Nebraska
2015 Wastewater Treatment Facility Improvements
JEO Project No. 140876

Dear Lowell:

Enclosed for your consideration are four (4) copies of **Application for Payment No. 13** for the above referenced project. The contractor has substantially completed the project and punch list work is mostly complete. We recommend withholding \$20,000 until the project punch list are completed. **We recommend approval of Pay Application No. 13 in the amount of \$109,685.62 to Eriksen Construction.** We are conducting payroll reviews and they are up to date except for one subcontractor, HOA.

Enclosed is the Certificate of Completion for your signature as well. We also recommend approval of this document.

Upon the City's approval, please forward one copy of the documents to the Contractor with payment, one to JEO, one to NDEQ and keep the other for your file. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Roger S. Protzman".

Roger S. Protzman
Senior Project Engineer

RSP:skw
Enclosures

Pc: Eriksen Construction Co., Inc.

140876LTR082916-Pay App #13.docx

Progress Estimate - Lump Sum Work

Contractor's Application

For Contract:		2015 Wastewater Treatment Facility Improvements - Phases 3, 4, & 5		Application Number: 13		
Application Period		Ending August 31, 2016		Application Date: 8-23-16		
Specification Section No	A Description	B Scheduled Value (\$)	C Work Completed		F Total Completed and Stored to Date (C + D + E)	G Balance to Finish (B - F)
			D From Previous Application (C-1)	E This Period		
				F Materials Presently Stored (not in C or D)	% (F / B)	
1	General Requirements / Mobilization 771	\$81,000.00	\$81,000.00		\$81,000.00	100.00%
2	Bond	\$24,300.00	\$24,300.00		\$24,300.00	100.00%
3	Concrete Reinforcement	\$55,000.00	\$55,000.00		\$55,000.00	100.00%
4	Concrete Footings	\$15,000.00	\$15,000.00		\$15,000.00	100.00%
5	Concrete Floor Slabs	\$11,000.00	\$11,000.00		\$11,000.00	100.00%
6	Digester Base Slab	\$40,000.00	\$40,000.00		\$40,000.00	100.00%
7	Digester Walls	\$98,000.00	\$98,000.00		\$98,000.00	100.00%
8	Drying Bed Footings & Walls	\$25,000.00	\$25,000.00		\$25,000.00	100.00%
9	Masonry	\$55,000.00	\$55,000.00		\$55,000.00	100.00%
10	Miscellaneous Metals	\$33,000.00	\$33,000.00		\$33,000.00	100.00%
11	Rough Carpentry	\$6,500.00	\$6,500.00		\$6,500.00	100.00%
12	FRP Panels	\$2,000.00	\$2,000.00		\$2,000.00	100.00%
13	Insulation	\$1,000.00	\$1,000.00		\$1,000.00	100.00%
14	Shingles	\$1,500.00	\$1,500.00		\$1,500.00	100.00%
15	Flashing & Gutters	\$1,500.00	\$1,500.00		\$1,500.00	100.00%
16	Joint Sealants	\$4,000.00	\$4,000.00		\$4,000.00	100.00%
17	H.M. Doors/Hyd	\$5,000.00	\$5,000.00		\$5,000.00	100.00%
18	Sectional Doors	\$69,000.00	\$69,000.00		\$69,000.00	100.00%
19	Painting and Coatings	\$1,500.00	\$1,500.00		\$1,500.00	100.00%
20	Specialties	\$8,000.00	\$8,000.00		\$8,000.00	100.00%
21	Pipe Support Systems	\$5,000.00	\$5,000.00		\$5,000.00	100.00%
22	Plumbing	\$39,000.00	\$39,000.00		\$39,000.00	100.00%
23	HVAC	\$130,000.00	\$130,000.00		\$130,000.00	100.00%
24	Electrical	\$8,000.00	\$8,000.00		\$8,000.00	100.00%
25	VFD's	\$72,000.00	\$72,000.00		\$72,000.00	100.00%
26	Earthwork	\$41,000.00	\$41,000.00		\$41,000.00	100.00%
27	Backfill	\$2,500.00	\$2,500.00		\$2,500.00	100.00%
28	Process Control	\$2,500.00	\$2,500.00		\$2,500.00	100.00%
29	Paving & Sidewalks	\$35,000.00	\$35,000.00		\$35,000.00	100.00%
30	Aggregate Surfacing	\$1,500.00	\$1,500.00		\$1,500.00	100.00%
31	Seeding	\$4,500.00	\$4,500.00		\$4,500.00	100.00%
32	Controls	\$80,000.00	\$80,000.00		\$80,000.00	100.00%
33	Valves	\$10,500.00	\$10,500.00		\$10,500.00	100.00%
34	Site Paving	\$79,000.00	\$79,000.00		\$79,000.00	100.00%
35	Air Paving	\$79,000.00	\$79,000.00		\$79,000.00	100.00%
36	Flanged Piping	\$5,000.00	\$5,000.00		\$5,000.00	100.00%
37	Flow Meter	\$135,000.00	\$135,000.00		\$135,000.00	100.00%
38	Rotary Lobe Blower	\$21,500.00	\$21,500.00		\$21,500.00	100.00%
39	Rotary Lobe Pump					

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract)		2015 Wastewater Treatment Facility Improvements - Phases 3, 4, & 5		Application Number: 13				
Application Period		Ending August 31, 2016		Application Date: 8/23/16				
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		D This Period	E Materials Presently Stored (not in C or D)	F Total Completed and Stored to Date ((C + D + E))	G Balance to Finish (B - F)
			From Previous Application ((C - D))					
40	Clarifier Launderers Covers	\$55,000.00	\$55,000.00				\$55,000.00	100.0%
41	Course Bubble Diffusers	\$87,000.00	\$87,000.00				\$87,000.00	100.0%
42	Belt Filter Press	\$185,700.00	\$185,700.00				\$185,700.00	100.0%
43	Change Order #1 Letters-Blowers-Old load out M/DIP fittings	\$6,197.00	\$6,197.00				\$6,197.00	100.0%
44	Change Order #2 Paving, Rock, Geo. Grid & SS pipe fitting	\$22,285.62	\$22,285.62				\$22,285.62	100.0%
45								
Totals		\$1,651,482.62	\$1,602,947.00	\$48,535.62			\$1,651,482.62	

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:	City of Wayne, NE	Owner's Contract No.:	
Contractor:	Eriksen Construction Co., Inc.	Contractor's Project No.:	
Engineer:	JEO Consulting Group, Inc.	Engineer's Project No.:	140876
Project:	2015 Wastewater Treatment Facility Improvements	Contract Name:	

This [preliminary] [final] Certificate of Substantial Completion applies to:

All Work The following specified portions of the Work:

Biosolids Building and associated equipment and work only.

8/2/2016

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

Amendments to Owner's responsibilities:

None
 As follows Maintain and Operate per manufacturer's training.

Amendments to

Contractor's responsibilities:

None
 As follows: Complete punch list items provided and other warranty issues that arise. Complete 2nd operator training for press.

The following documents are attached to and made a part of this Certificate: Punch Lists

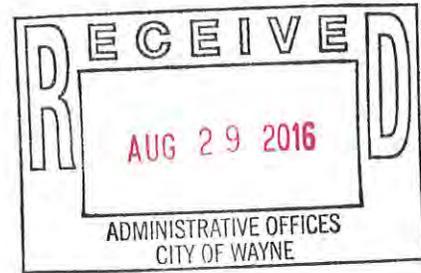
This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

EXECUTED BY ENGINEER:		RECEIVED:		RECEIVED:	
By:	<u><i>Alan F. Polzeman</i></u> (Authorized signature)	By:	_____	By:	<u><i>Roger C. Olson</i></u>
Title:	<u><i>Senior Proj Eng.</i></u>	Title:	_____	Title:	<u><i>Project Manager</i></u>
Date:	<u><i>August 30, 2016</i></u>	Date:	_____	Date:	<u><i>August 29, 2016</i></u>
			Owner (Authorized Signature)		Contractor (Authorized Signature)



May 25, 2016

Lowell Johnson, City Administrator
City of Wayne
PO Box 8
Wayne, NE 68787



RE: Wayne, Nebraska
2015 Wastewater Treatment Facility Improvements
JEO Project No. 140876

Dear Lowell:

Enclosed is our invoice for services through August 19, 2016. Construction is substantially complete and the contractor is working through the various punch lists developed as a part of the project.

During the months of July and August we have reached and exceeded the contractual amount of resident project representative services (construction observation). The contract amount for these services is \$64,900 and we presently are at \$67,855. We are seeking authorization to bill for these services provided during this project. We anticipate that there will be some follow up services on top of this to review the punch lists at least one more time with the contractor and to address any warranty concerns the staff might have. Previously you inquired into the nature of these costs and I offer the following:

- Additional progress meetings were held to improve project coordination and for several months we met twice a month. This required additional labor on our part.
- City staff requested several additional visits from our staff to review contractor work during critical work sequencing to insure work was completed correctly. These were provided as requested.
- During two start up events, we had notable down time that caused us to incur additional expense. Those included the snow storm that occurred the night prior to the variable frequency startup and the controls issues encountered in the belt press start up.
- The billing rate for each employee is different and more technical staff were requested onsite to assist due to their past experience with the project.

We believe at this point there would be about three more visits required, (punch list review, final walk through, and a follow up visit for any new issues that arise) and likely several more warranty visits that typically arise on a project such as this. We are seeking authorization of payment of the \$2,955.5 that has been incurred and we recommend increasing the budget one time for the RPR services by \$7,500, which includes the aforementioned amount and cover the future visits. This brings the total to \$72,400. Again, these services are billed hourly and if warranty issues do not arise, then no additional amount would be billed for these services.

Sincerely,

Roger S. Protzman
Senior Project Engineer

RSP:skw
Enclosures

140876LTR082616-contract amount.docx

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

803 W. Norfolk Avenue | Norfolk, Nebraska 68701-5144 | p: 402.371.6416 | f: 402.371.5109

www.jeo.com



Invoice

August 25, 2016
Project No: R140876.00
Invoice No: 91208
Invoice Amount: 7,085.00

Lowell Johnson
City of Wayne
207 S. Pearl St.
Wayne, NE 68787

Project Manager Roger Protzman
Project R140876.00 Wayne Biosolids Handling Improvements
Professional Services through August 19, 2016

	Contract Amount	Percent Complete	Billed-to-Date	Previous Billing	Current Billing
Lump Sum Phase(s)					
Project Management	\$18,600.00	100 %	\$18,600.00	\$18,600.00	0.00
Preliminary Design	\$43,250.00	100 %	\$43,250.00	\$43,250.00	0.00
Final Design	\$59,050.00	100 %	\$59,050.00	\$59,050.00	0.00
Bidding and Negotiation	\$10,600.00	100 %	\$10,600.00	\$10,600.00	0.00
Construction Services	\$25,500.00	100 %	\$25,500.00	\$23,500.00	\$2,000.00
Post Construction	\$5,710.00	20 %	\$1,142.00	\$1,142.00	0.00
Hourly Phase(s)(Estimated Fee)					
Reimbursable Expenses	\$210.10		\$210.10	\$210.10	0.00
RPR Services	\$64,900.00		\$67,855.50	\$62,770.50	\$5,085.00
Total	\$227,820.10		\$226,207.60	\$219,122.60	\$7,085.00
Total Amount Due Upon Receipt					\$7,085.00

cc: Dawn Navrkal, dawn@cityofwayne.org

**AMENDMENT TO AGREEMENT
WAYNE BIOSOLIDS HANDLING
WAYNE, NEBRASKA
JEO PROJECT NO. R140876.00**

August 26, 2016

REFERENCE: Consultant agreement for additional resident project representative services for the Wayne Biosolids Handling original contract dated August 1, 2014. Except as noted below, all other terms and conditions remain unchanged.

AMENDMENT: To include fees for the additional time relating to the project construction observation due to additional hours of service.

FEE: Resident Project Representative (Hourly Not to Exceed) \$7,500.00

Adjusting the total RPR from \$64,900 to \$72,400 (Hourly not to exceed).

- Additional progress meetings were held to improve project coordination and for several months we met twice a month. This required additional labor on our part.
- City staff requested several additional visits from our staff to review contractor work during critical work sequencing to insure work was completed correctly. These we provided as requested.
- During two start up events, we had notable down time that caused us to incur expenses. Those included the snow storm that occurred the night prior to the variable frequency startup and the controls issues encountered in the belt press start up.
- The billing rate for each employee is different and more technical staff was requested onsite to assist due to their past experience with the project.

OWNER: City of Wayne, Nebraska
Ken Chamberlain - Mayor

ENGINEER: JEO Consulting Group, Inc.
Roger Protzman



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TITLE XV: LAND USAGE

Chapter

150.BUILDING REGULATIONS; CONSTRUCTION

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CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

General Provisions

- 150.01 Building Inspector
- 150.02 Demolition of buildings; regulation
- 150.03 Moving Buildings (See notes to move from Chapter 17: Moving Buildings to this section)**

Codes Adopted

- 150.15 Building Code; building permits
- 150.16 Electrical Code
- 150.17 International Residential Code for One- and Two-Family Dwellings
- 150.18 Plumbing Code; plumbers
- 150.19 Heating, ventilation and cooling (HVAC)

Unsafe Buildings

- 150.30 Special assessments
- 150.31 Property Maintenance Code adopted by reference
- 150.32 Conflicts
- 150.33 Additions, insertions and changes
- 150.34 Structures damaged by fire, flood, wind, disaster or other calamity

- 150.99 Penalty

GENERAL PROVISIONS

§ 150.01 BUILDING INSPECTOR.

Wayne - Land Usage

(A) *Power and authority.* The Building Inspector shall be the city official who shall have the duty of enforcing all building, plumbing, electrical, fire and housing regulations as prescribed in this chapter. He or she shall inspect all buildings repaired, altered, built or moved in the city as often as necessary to ensure compliance with all city ordinances. He or she shall have the power and authority to order all work stopped on any construction, alteration or relocation which violates any provisions prescribed in this chapter. He or she shall issue permission to continue any construction, alteration or relocation when he or she is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any police officer. If the Council fails to appoint a Building Inspector, the administrative zoning official shall be the Building Inspector ex officio.

(B) *Right of entry.* It shall be unlawful for any person to refuse to allow the Building Inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place for the purpose of making official inspections at any reasonable hour.

(2002 Code, § 18-1) Penalty, see § 150.99

§ 150.02 DEMOLITION OF BUILDINGS; REGULATION.

(A) It shall be unlawful for any person to demolish or raze any building or part of a building in the city without first obtaining a permit from the Building Inspector.

(B) Such permit shall be issued by the Building Inspector, but only after an application for such permit has been approved by the City Administrator.

(C) Before such application is approved by the City Administrator, the applicant shall be required to post a bond of \$1 per square foot of the total floor space of the building excluding basement to be demolished or razed. The bond shall be conditioned that all city utilities shall be properly disconnected and that there will be proper removal of all demolished or razed material. The words ***PROPERLY DISCONNECTED*** shall include, but not necessarily be limited to, shutting off the water at the main and sealing the sewer at the point of disconnection with concrete. The Building Inspector shall charge a fee for the permit. The amount of such fee shall be set by the Council, and a schedule of such fee is on file in the City Clerk's office.

(2002 Code, § 18-2) (Ord. 2008-5, passed 4-1-2008) Penalty, see § 150.99

CODES ADOPTED

§ 150.15 BUILDING CODE; BUILDING PERMITS.

(A) *Adopted by reference.* To provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction, and uses of materials in buildings erected, constructed, enlarged, altered, repaired, relocated and converted, the 2006 International Building Code printed in book or pamphlet form, is incorporated by reference in addition to all amendments thereto as though printed in full in this section insofar as such Code does not conflict with the state statutes. One copy of the Code adopted in this section is on file at the office of the Building Inspector and is available for public inspection at any reasonable time. The provisions of the Code adopted in this section shall be controlling throughout the city and throughout its zoning jurisdiction.

(2002 Code, § 18-41)

(B) *Permit fee schedule.* The building permit fee schedule for the city, also referred to in the International Building Code adopted in division (A) above, shall be set by the Council; and a schedule of such fees is on file and available in the City Clerk's office.

(2002 Code, § 18-42)

(C) *Permit determinations.* The Building Inspector shall determine when a building permit is required pursuant to this section. Any appeal of the Building Inspector's decision of the requirement to obtain a building permit shall be appealed to the City Administrator.

(2002 Code, § 18-43)

(D) *Energy Code adopted by reference.* To provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and dwellings erected, constructed, enlarged, altered, repaired, relocated and converted, relating to the exterior envelopes and selection of heating, ventilating and air conditioning, service water heating, electrical distribution and illuminating systems and equipment required for the purpose of effective conservation of energy within a building or dwelling, the 2006 International Energy Conservation Code (IECC), printed in book or pamphlet form, is incorporated by reference in addition to all amendments printed in book or pamphlet form, is incorporated by reference as though printed in full in this division (D) insofar as such Code does not conflict with the state statutes. One copy of the Code adopted in this division (D) is on file in the office of the Building Inspector and is available for public inspection. The provisions of the Code adopted in this division (D) shall be controlling throughout the city and throughout its zoning jurisdiction.

(2002 Code, § 18-44)

(E) *Building permits; duplicate to County Assessor.* Whenever a building permit is issued for the erection, alteration or repair of any building within the city's zoning jurisdiction, and the improvement is \$1,000 or more, a duplicate of such permit shall be issued to the County Assessor.

(2002 Code, § 18-45)

(F) *Building permits; cash deposits.*

(1) Cash deposits shall be required with the submittal of each building permit application. The cash deposits shall be set by the Council, and a schedule of the same is on file and available in the City Clerk's office.

Wayne - Land Usage

(2) The cash deposit shall be forfeited to the city if the contractor fails to call the Building Official to request the required inspections as noted on the building permit card. Upon forfeiture of the building permit cash deposit, a new cash deposit of the same amount shall be required before construction can continue.

(3) The building permit cash deposit shall not be waived.

(4) The cash deposit shall be returned to the owner or contractor as stated on the building permit application within two business days after issuance of the certificate of occupancy.
(2002 Code, § 18-46)

(G) *Building permits; penalty.* A penalty for not obtaining a building permit prior to the start of the project shall be established in an amount of two times the building permit fee.

(2002 Code, § 18-47)

(Ord. 98-19, passed 11-24-1998; Ord. 2000-15, passed 7-25-2000; Ord. 2007-13, passed 11-20-2007; Ord. 2007-24, passed 12-4-2007; Ord. 2010-30, passed 12-21-2010; Ord. 2011-4, passed 4-5-2011)
Penalty, see § 150.99

Statutory reference:

Authority to adopt building code by reference, see Neb. RS 18-132

Related provisions, see Neb. RS 18-1743

§ 150.16 ELECTRICAL CODE.

(A) *Adopted by reference.* To provide certain minimum standards, provisions and requirements for all electrical wiring, installation of electrical fixtures, apparatus or electrical appliances for furnishing light, heat or power, or other electrical work introduced into or placed in or upon, or in any way connected to any building or structure, the 2008 National Electrical Code, printed in book or pamphlet form, is incorporated by reference in addition to all amendments thereto as though printed in full in this section, insofar as the Code does not conflict with the state statutes. One copy of the National Electrical Code is on file in the office of the Building Inspector and is available for public inspection at any reasonable time. The National Electrical Code shall be controlling throughout the city and throughout its zoning jurisdiction.

(2002 Code, § 18-81)

(B) *Purpose.* This Electrical Code shall not be construed to:

(1) Require employees of city corporations, public power districts, public power and irrigation districts, electric membership or cooperative associations, public utility corporations, railroads, petroleum companies, petrochemical companies, pipeline companies, telephone or telegraph systems performing manufacturing, installation and repair work for such employer to hold licenses while acting within the scope of their employment;

(2) Cover the installation, maintenance, repair or alteration of vertical transportation or passenger conveyors, elevators, moving walks, dumbwaiters, stagelifts, manlifts or their appurtenances beyond the terminals of the controllers; and

(3) Require a license of any person who engages any electrical appliance where approved electrical outlets are already installed.
(2002 Code, § 18-82)

(C) *Building Inspector.* The Building Inspector or his or her authorized representatives are hereby authorized and directed to enforce the provisions of the Electrical Code, and take such action, as provided by law, to enforce the provisions of the Electrical Code.
(2002 Code, § 18-83)

(D) *Duties of the Building Inspector.*

(1) The Building Inspector shall examine or cause to be examined all electrical installations for which a permit has been issued.

(2) (a) A state electrical permit is required for any electrical work performed within the city limits and within the city's two-mile zoning jurisdiction; this includes an owner of property who resides at the principal dwelling more than 51% of the time. The State Electrical Inspector will conduct all electrical inspections, including remodels and additions for residential structures and any electrical work performed by the owner of the property who resides at the residence more than 51% of the time. The Building Inspector shall not be required to make inspections on any electrical installations that are required to be inspected by state or federal authorities.

(b) An owner of a property may perform electrical work on his or her principal residence where he or she resides more than 51% of the time, if such residence is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations in public use buildings or facilities. The owner of the property does not need to be licensed by the State Electrical Division to perform such work. However, the owner of the property may not perform electrical work on a relative's residence, their rental property or their recreational properties. If the owner of a property is purchasing a home or is presently building a home for their principal residence, the owner may not perform any electrical work.

(3) The Building Inspector or State Electrical Inspector is authorized to examine or cause to be examined any electrical equipment or wiring within or on any building or premises. If such is found to be defective, or not in compliance with accepted standards of construction for safety to life and property, based upon minimum standards set forth in the National Electrical Code, as in any improper operating condition so as to constitute a danger to human life or a hazard to the public health, safety and welfare, the Building Inspector shall give written notice to the owner of such building or premises, stating the deficiencies found to exist and the date by which these deficiencies must be corrected. Such notice shall be served personally or mailed by United States mail upon the owner at his or her last known address and upon the electrician making the installation.

(4) The Building Inspector is vested with the authority to condemn and disconnect or order the electric utility supplier to disconnect the electrical service to any building or premises where such deficiencies in electrical equipment or wiring have not been corrected within the time specified by such notice duly served upon the owner, or in cases of emergency where the name is necessary for the protection of life, limb or property; and is further authorized to order the electric utility supplier to disconnect service to any building or premises where a valid permit has not been issued for such electrical services.

(2002 Code, § 18-84)

(E) *Right of entry.*

(1) Whenever necessary to make an inspection to enforce any of the provisions of the Electrical Code, or whenever the Building Inspector has reasonable cause to believe that there exists within or on any building or premises any equipment or wiring which makes such building or premises dangerous, hazardous or unsafe, or that work is being done or has been done in violation of the Electrical Code, the Building Inspector is authorized to enter within or on such building or premises at any reasonable time and to inspect the premises; provided that, if such building or premises are occupied, he or she shall first present proper credentials to the occupant and demand entry, explaining his or her reasons; and, if such building or premises are unoccupied, he or she shall first make reasonable effort to locate the owner or other person having charge or control of such building or premises and demand entry, explaining his or her reasons. If such entry is refused or cannot be obtained because the owner or other person having charge or control cannot be found after due diligence, the Building Inspector shall have recourse to every remedy provided by law to secure lawful entry and inspect such building or premises. If, after inspection, the Building Inspector finds the work or equipment being used in a dangerous, hazardous or unsafe manner, he or she is authorized to order discontinuance of such work or the use of such equipment.

(2) No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as provided in this section, to promptly permit entry by the Building Inspector for the purpose of inspection and examination pursuant to the Electrical Code. Any person violating this division (E)(2) shall be guilty of a misdemeanor.

(2002 Code, § 18-85)

(F) *Building Inspector relieved from personal liability.* The Building Inspector or any employee charged with the enforcement of the Electrical Code, acting in good faith and without malice for the city in the discharge of his or her duties, shall not thereby render himself or herself liable personally and he or she is released from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the Building Inspector or employee because of such act or omission performed by him or her in the enforcement of any provisions of the Electrical Code shall be defended by the Legal Department of the city until final termination of the proceedings.

(2002 Code, § 18-86)

(G) *Regulations and registrations.*

(1) It shall be unlawful for any person to engage in the business of installing electrical wiring or equipment for electrical light, heat, power and any other purposes within the jurisdiction of the city, except as provided in this division (G)(1), without having first procured a state Class "A" master electrician's license, a Class "A" electrical contractor's license or a Class "A" journeyman's license, and until he or she has obtained a certificate of registration with the city. Application for registration shall be made in writing to the Building Inspector, showing the name and residence of the applicant, the business location of the applicant and such other information as may be required.

(2) It shall be unlawful for any person to install or supervise the installation of electrical wiring or equipment within the jurisdiction of the city, except as provided in division (G)(1) above.

(3) It shall be unlawful for any person to supervise or assign more than three apprentice electricians to any one master electrician on any one job or project or to assign work to be done or performed by apprentice electricians in violation of the Electrical Code. It shall be unlawful for an apprentice to do or perform any act or electrical installation, repair or maintenance without the supervision of anyone as set forth in division (G)(1) above.

(4) It shall be unlawful for any person to conceal or cause to be concealed any electrical wiring or equipment, except with the permission of the Building Inspector. The request for inspection must be made at the office of the Building Inspector.

(5) All registrations shall expire on December 31 of each year in which they are issued and shall not be assignable. Certificates of registration may be renewed upon payment of the required registration fee.

(2002 Code, § 18-87)

(H) Installation by homeowner.

(1) Any homeowner may install electrical wiring or equipment only in a single-family residence which he or she occupies or will occupy as his or her home and an adjacent garage of three stalls or less. All electrical wiring installed by an owner shall be for himself or herself, without compensation or pay from or to any other person for such labor or installation. The homeowner shall be required to apply for and secure a building permit for such installation, pay the required building permit fees and call for all inspections in the manner provided by this section.

(2) A homeowner shall provide to the satisfaction of the Building Inspector that he or she will own the home and will reside in such home in order to qualify for a homeowner's permit.

(2002 Code, § 18-88)

(I) Permit required.

Wayne - Land Usage

(1) No alteration or change shall be made in electrical wiring or equipment for use in the protection of electric lights, heat or power, nor shall any electrical wiring or apparatus be installed within the city without the person's making the alteration or change first securing from the Building Inspector a building permit; nor shall any change be made in any wiring or equipment after inspection without such person's notifying the Building Inspector and securing a building permit; except that, no building permit shall be required to execute minor repair work such as, but not limiting, the generality of the term to:

(a) Repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping joints and repairing drop cords, and repairing of appliances, motors and other devices when not attached to permanent wiring;

(b) Wiring which is an integral part of machinery, appliances or vehicles;

(c) Experimental work of a temporary nature in testing laboratories of electrical shops, educational institutions and the like;

(d) Wiring supplied with current by approved bell-ringing transformers; and

(e) The attaching of portable appliances to existing outlets.

(2) No building permit shall be issued until the fee has been paid according to this section. (2002 Code, § 18-89)

(J) *Record of Building Inspector.* The Building Inspector shall keep a full and complete record of all work done, permits issued, examinations made or other official work performed as required by the Electrical Code. The records shall be so arranged as to afford prompt information concerning the condition and general arrangement of any electrical equipment at the time of the Building Inspector's last visit.

(2002 Code, § 18-90)

(K) *Occupation tax.* For the purpose of raising revenue, an occupation tax is levied for electricians and apprentices. The amount of such tax shall be set by the Council, and a schedule of such occupation tax is on file and available in the City Clerk's office.

(2002 Code, § 18-91)

(Ord. 99-7, passed 7-27-1999; Ord. 2007-24, passed 12-4-2007; Ord. 2010-4, passed 4-20-2010; Ord. 2010-30, passed 12-21-2010) Penalty, see § 150.99

Statutory reference:

Authority to adopt electrical code by reference, see Neb. RS 18-132

§ 150.17 INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS.

To provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction, and uses of materials in houses erected, constructed, enlarged, altered, repaired, relocated and converted, the 2006 International Residential Code for One- and Two-Family Dwellings, printed in book or pamphlet form, is incorporated by reference as though printed in full in this section insofar as such Code does not conflict with the state statutes. One copy of the Code adopted in this section is on file at the office of the Building Inspector and is available for public inspection. The provisions of the Code adopted in this section shall be controlling throughout the city and throughout its zoning jurisdiction.

(2002 Code, § 18-151) (Ord. 2000-15, passed 7-25-2000; Ord. 2007-24, passed 12-4-2007; Ord. 2010-30, passed 12-21-2010)

Statutory reference:

Authority to adopt codes by reference, see Neb. RS 18-132

§ 150.18 PLUMBING CODE; PLUMBERS.

(A) *Adopted by reference.* To provide certain minimum standards, provisions and requirements for safe and stable installation, methods of construction and uses of materials in the installation of plumbing, the 2006 International Plumbing Code, published in book or pamphlet form, is incorporated by reference in addition to all amendments thereto as though printed in full in this section insofar as such Code does not conflict with the state statutes. One copy of the Code adopted in this section is on file at the office of the Building Inspector and is available for public inspection at any reasonable time. The provisions of the Code adopted in this section shall be controlling throughout the city and throughout its zoning jurisdiction.

(2002 Code, § 18-181)

(B) *Plumbers.*

(1) *Registration required.* No person shall hereafter engage in or work at the business of a master plumber or journeyman plumber in the city until he or she shall have registered as a master plumber or journeyman plumber. Application for registration shall be made in writing to the City Administrator, showing the name and residence of the applicant, the business location of the applicant and such other information as may be required.

(2002 Code, § 18-201)

(2) *Registration of firm.* Any firm may be registered as a master plumber in the name of such firm; provided that, such firm shall have a master plumber who is duly registered as provided in this division (B). Such master plumber must be a bona fide officer of the firm or an employee who is regularly employed by the firm and is actually engaged in the planning, superintending and practical installation of plumbing and drainage. The master plumber listed and registered by such firm shall be in actual charge of and responsible for the installation, removal or repair of any plumbing or drainage work done by such firm.

(2002 Code, § 18-202)

Wayne - Land Usage

(3) *Expiration and renewal of registration.* All plumbers registrations shall expire on December 31 of the year in which they are issued, and shall not be assignable. Certificates of registration may be renewed upon payment of the required registration fee.
(2002 Code, § 18-203)

(4) *Revocation of certificate of registration.*

(a) The Council by a majority vote shall have power to revoke any master plumber's or journeyman plumber's certificate of registration upon the recommendation of the Building Inspector or his or her designated representative if the certificate was obtained through error or fraud, or if the recipient is shown to be grossly incompetent, or has a second time willfully violated any of the provisions of the Plumbing Code.

(b) If a certificate of registration is revoked, the holder shall not apply for registration for one year after such revocation.
(2002 Code, § 18-204)

(5) *Unlawful transfer of certificate.* No registered plumber shall allow his or her name to be used by another person, directly or indirectly, to obtain a permit for the installation of any work; and, if any registered plumber violates this provision, the Council shall forthwith revoke the certificate of registration issued to such plumber. In addition to having his or her certificate of registration revoked, such master plumber may be prosecuted under § 10.99 of this code.
(2002 Code, § 18-205)

(6) *Fees.* The City Clerk shall collect all registration and renewal fees as occupation taxes and shall pay them to the School District within the city. The Council shall have the right to classify plumbers for the purpose of setting registration and renewal fees in such categories as it may, in its discretion, set. Such categories are declared to be reasonable and non-discriminatory. The actual amounts of the registration and renewal fees shall be on file at the office of the City Clerk.
(2002 Code, § 18-206)

(7) *Occupation tax.*

(a) For the purpose of raising revenue, an occupation tax for plumbers is levied in an amount to be set by the Council.

(b) The City Clerk shall collect all fees, permits, taxes and renewals and credit them to the General Fund.
(2002 Code, § 18-207)

(8) *Exceptions.* The provisions of this division (B) relating to plumbers shall not apply to any public utility company serving the city and its inhabitants under a franchise agreement with the city, or its agents and employees, and shall not be construed as a limitation or restriction upon any franchises granted by the city.

(2002 Code, § 18-208)

(Ord. 2000-15, passed 7-25-2000; Ord. 2007-24, passed 12-4-2007; Ord. 2010-30, passed 12-21-2010)

Penalty, see § 150.99

Statutory reference:

Authority to adopt plumbing code by reference, see Neb. RS 18-132

Related provisions, see Neb. RS 18-1908 through 18-1911

§ 150.19 HEATING, VENTILATION AND COOLING (HVAC).

(A) To provide certain minimum standards, provisions and requirements for safe and stable installation, methods of connection and uses of materials in the installation of HVAC equipment, the 2006 International Mechanical Code, published in book or pamphlet form, is incorporated by reference in addition to all amendments thereto as though printed in full in this section insofar as such Code does not conflict with the state statutes. One copy of the Code adopted in this section is on file at the office of the Building Inspector and is available for public inspection at any reasonable time. The provisions of the Code adopted in this section shall be controlling throughout the city and throughout its zoning jurisdiction.

(B) The provisions of this section relating to HVAC installers shall not apply to any public utility company.

(2002 Code, § 18-351) (Ord. 2007-24, passed 12-4-2007; Ord. 2010-30, passed 12-21-2010)

UNSAFE BUILDINGS

§ 150.30 SPECIAL ASSESSMENTS.

If any owner of any building or structure fails, neglects or refuses to comply with notice by or on behalf of the city to repair, rehabilitate or demolish and remove a building or structure which is unsafe, or a public nuisance, or is in violation of the 2006 International Property Maintenance Code as adopted by § 150.31 of this chapter, the city may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Council. The Council may levy the cost as a special assessment against the lot or real estate upon which the building or structure is located; which special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(2002 Code, § 18-241) (Ord. 2007-24, passed 12-4-2007; Ord. 2010-30, passed 12-21-2010)

Statutory reference:

Related provisions, see Neb. RS 18-1722

§ 150.31 PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE.

A certain document, one copy which is on file in the office of the Building Inspector of the city, being marked and designated as the International Property Maintenance Code 2006, as published by the International Code Council, Inc., is hereby adopted as the Property Maintenance Code of the city, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in § 150.33 of this chapter.

(2002 Code, § 18-242) (Ord. 2000-15, passed 7-25-2000; Ord. 2007-24, passed 12-4-2007; Ord. 2010-30, passed 12-21-2010; Ord. 2011-8, passed 8-16-2011)

Statutory reference:

Authority to adopt codes by reference, see Neb. RS 18-132

§ 150.32 CONFLICTS.

In the event of a conflict between the provisions of the publication adopted by reference in this subchapter and any other provisions of this code, such other provisions shall be controlling.

(2002 Code, § 18-243) (Ord. 2011-8, passed 8-16-2011)

§ 150.33 ADDITIONS, INSERTIONS AND CHANGES.

The following sections of the Property Maintenance Code adopted in § 150.31 of this chapter are hereby revised as follows:

(A) Section 101.1 Title. Insert: “the City of Wayne, Nebraska”.

(B) Section 103.5 Fees. Amend section to read as follows:

“The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be charged as necessary to reasonably recover costs.”

(C) Section 110.1 General. Amend section to read as follows:

“The Code Official shall order the owner of any structure or the owner of the premises upon which any structure is located that has been condemned by the Code Official pursuant to this code, or in the Code Official’s judgment is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the structure owner’s or property owner’s option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure. In the event the structure and premises upon which the structure is located are in separate ownership, then both the owner of the structure and the owner of the premises shall be responsible for said removal.”

(D) Section 110.3 Failure to comply. Amend section to read as follows:

“Any person who fails to comply with a demolition order within the time prescribed shall be deemed guilty of an offense punishable by a fine of not less than five hundred dollars. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The Code Official may cause the structure to be demolished and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.”

(E) Section 111.1 Application for appeal. Amend section to read as follows:

“Any person directly affected by a decision of the Code Official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. A fee set forth by the city Council shall accompany each application for appeal to the board of appeals; and a schedule of such fees is on file and available in the City Clerk’s office. Such fee shall be refunded to the applicant in the event the board of appeals finds in favor of the applicant. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship.”

(F) Section 302.4 Weeds. Insert: “twelve (12) inches”.

(G) Section 304.14 Insect Screens. Insert: “April 1 to November 1”.

(H) Section 602.3 Heat Supply. Amend section to read as follows:

“Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68 F. (20 C.) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.”

(I) Section 602.4 Occupiable work spaces: Amend section to read as follows:

“Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65 F. (18 C.) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.”

(2002 Code, § 18-244) (Ord. 2011-8, passed 8-16-2011)

§ 150.34 STRUCTURES DAMAGED BY FIRE, FLOOD, WIND, DISASTER OR OTHER CALAMITY.

Any structure becoming uninhabitable, unusable or unoccupiable as a result of fire, flood, wind,

disaster or other calamity shall be completely repaired within one year of the fire, flood, wind, disaster or other calamity. If repairs are not completed within one year, the structure shall be inspected by the Code Official. If following the inspection, the structure is determined to be uninhabitable, unusable or unoccupiable by the Code Official, the structure shall be demolished by the owner of the property. In the event the structure and premises upon which the structure is located are in separate ownership, then both the owner of the structure and the owner of the premises shall be responsible for said removal. Any appeal of the Code Official's decision shall be governed by the appeal provisions contained in the Property Maintenance Code adopted by the city.

(2002 Code, § 18-245) (Ord. 2011-8, passed 8-16-2011)

§ 150.99 PENALTY.

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

(B) (1) It shall be unlawful for any person to install, repair, alter, maintain, relocate or remove electrical equipment or wiring or cause or permit such work to be done contrary to or in violation of any of the provisions of the Electrical Code, as per § 150.16 of this chapter.

(2) Any person violating any of the provisions of the Electrical Code shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Electrical Code is committed, continued or permitted; and, upon conviction of any such violation, such person shall be punishable in accordance with § 10.99 of this code. The city shall, in addition to the foregoing, have the right to enjoin the commission of any violations of § 150.16 of this chapter.

(2002 Code, § 18-92)

(C) (1) It shall be unlawful for any person to remove, destroy or deface any notice posted by the Building Inspector upon any structure in regards to the Code adopted by § 150.31 of this chapter.

(2) Any person violating § 150.31 of this chapter shall be penalized up to seven days in jail, a \$500 fine, or both.

(2002 Code, § 18-246)

(Ord. 2012-57, passed 10-2-2012)

CHAPTER 151: SUBDIVISIONS

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GENERAL PROVISIONS

§ 151.001 TITLE.

This chapter may be known and may be cited and referred to as the “Subdivision Regulation Ordinance of the City of Wayne, Nebraska”, to the same effect as if the full title were stated. (2002 Code, § 74-1) (Ord. 93-12, passed 9-28-1993)

§ 151.002 JURISDICTION.

The provisions of this chapter shall apply within the area of planning jurisdiction as defined on the official zoning map of the city, as it may be amended by subsequent annexation. (2002 Code, § 74-2) (Ord. 93-12, passed 9-28-1993)

§ 151.003 PURPOSES AND OBJECTIVES.

This chapter is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this chapter is adopted in order to ensure that new development resulting in land subdivision in the city shall conform to minimum development practices and standards. Further, it is intended that such land subdivision shall result in properly coordinated design and construction of lots, blocks, streets, utilities, public facilities and other community assets. (2002 Code, § 74-3) (Ord. 93-12, passed 9-28-1993)

§ 151.004 AMENDMENTS.

Any provision of this chapter may be amended, supplemented, changed, modified or repealed by the Council according to law; however, such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after the study, written report and recommendation by the Planning Commission to the Council. (2002 Code, § 74-4) (Ord. 93-12, passed 9-28-1993)

§ 151.005 ADMINISTRATION AND ENFORCEMENT.

The following apply towards administration of this chapter.

(A) It shall be the duty of the Zoning Administrator to enforce this chapter and to bring to the attention of the Planning Commission and the Council any violation or lack of compliance with this chapter.

(B) No owner, or agent of an owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a plat of such subdivision has been approved by the Planning

Commission and the Council in accordance with the provisions of this chapter, and filed for record with the County Register of Deeds.

(C) The subdivision, including resubdivision, of any lot or any parcel by the use of metes and bounds description for the purpose of sale, transfer or lease which would evade this chapter shall not be permitted. All such subdivisions shall be subject to all the requirements contained in this chapter.

(D) No building permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided, sold, transferred or leased in violation of the provisions of this chapter. (2002 Code, § 74-5) (Ord. 93-12, passed 9-28-1993)

§ 151.006 DEFINITIONS.

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

ADT. Average daily traffic in a 24-hour period.

ALLEY. A public or private thoroughfare which affords only a secondary means of access to abutting property.

BLOCK. A parcel of land entirely surrounded by public highways, streets, railroads or unplatted land.

BOND. Any form of security, including a cash deposit, security bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council which meets the intent of such security required by this chapter.

BUILDING LINE. A line parallel or nearly parallel, to either the street line or the lot line not abutting the street and at a specified distance from the street or lot line which marks the minimum distance from either line a building may be erected. In the case of a cul-de-sac, the **BUILDING LINE** shall be measured around the curvature of the street line to the foundation wall.

CITY ENGINEER. The Engineer retained by the Council for the recommendation, advice and implementation of engineering work as requested by the city.

COMMON OPEN SPACE. The undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the enjoyment and benefit of the owners and occupants of the individual building sites of the development.

COMMUNITY WASTEWATER SYSTEM. Any system, whether publicly or privately owned, serving two or more lots, for the collection and treatment of wastewater or industrial wastes of a liquid nature, including various devices for the treatment of such wastewater or industrial wastes.

COMMUNITY WATER SYSTEM. Any system, including various devices to collect, treat, store and distribute the water, whether publicly or privately owned, serving two or more lots, supplying an

adequate amount of potable water to the occupant of the lot.

COMPREHENSIVE PLAN. A general plan for the improvement and development of the city as adopted by the City Planning Commission.

CORNER LOT. The same as **LOT, CORNER.**

COVENANT. A written agreement or promise between two or more parties for the performance of some action specifying such items as types of construction, land use, setbacks, design standards and the like.

CUL-DE-SAC. A street having one end open to traffic and being terminated by a vehicular turnaround.

DEDICATION. A grant of land by the owner to the public for public use.

DENSITY. The number of dwelling units or lots per gross acres of land area computed by dividing the gross acreage of the subdivision into the total number of dwelling units or lots.

DEVELOPER. Any individual, subdivider firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land under this chapter for himself, herself or for another.

DEVELOPMENT. The division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining excavation, landfill or land disturbance; and any use or extension of the use of land.

DISTRICT. The same as **ZONING DISTRICT.**

DWELLING. Any building or portion of a building which is designed for and used exclusively for residential purposes.

EASEMENT. A right to use a parcel of land, granted to the general public, a utility, corporation or person for a specific purpose.

ENGINEER. Any person registered to practice professional engineering by the State Board of Registration who is designated by the city to approve portions of proposed subdivisions as specified in this chapter as requiring an engineer's approval.

ESCROW. A deposit of cash with the city in lieu of an amount required and still in force on a performance bond or maintenance bond as required by this chapter.

FLOODPLAIN. Those lands which are subject to a 1% or greater chance of flooding in any given year.

FLOODWAY COMMISSION. A floodway whose limits have been designated and established by order of the State Natural Resources Commission.

FLOODWAY, SELECTED. A floodway within the limits of a commission floodway which is recognized by the State Natural Resources Commission as being subjected to a high degree of flood hazard.

GENERAL OBLIGATION. A debt incurred by the city or a SID by the issuance of general obligation bonds to finance certain public capital improvements in a subdivision. These improvements are outlined in §§ 151.070 through 151.080 of this chapter.

GOVERNING BODY. The body having jurisdiction in the zoning area.

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

INDIVIDUAL WASTEWATER SYSTEM. A wastewater system, other than a public or community system, which receives either human excreta or liquid waste or both from no more than one lot. Included within the scope of this definition are wastewater stabilization ponds, septic tank soil-absorption systems, chemical-type systems and such other similar types of systems.

INDIVIDUAL WATER WELL SYSTEM. A water system, including various devices to supply the water, other than a public or community water system, which supplies adequate potable water to no more than one lot.

LOT. A platted parcel of land intended to be separately owned, developed and otherwise used as a unit.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

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

LOT, FLAG. Those lots landlocked from public right-of-way, except for a narrow tract of land of less width than required under assigned zoning.

LOT FRONTAGE. The portion of a lot abutting a street. For purposes of determining yard requirements of corner lots and through lots, all sides of a lot abutting a street shall be considered **FRONTAGE**.

LOT, INTERIOR. A lot other than a corner lot which has frontage on one street only.

LOT LINE. The boundary line of a lot.

LOT MINIMUM AREA. The minimum square footage of land area occupied or to be occupied by a single principal building and accessory buildings as applicable to designated zoning districts.

LOT, NON-CONFORMING. A lot which was lawfully created under prior zoning when lesser

area or dimension requirements were enforced and does not currently conform to the existing zoning district space limits.

LOT, PLATTED. A lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds for the county.

LOT OF RECORD. A lot which is both part of a subdivision recorded in the office of the Register of Deeds for the county, and having been owned separately and individually from adjoining lots or tracts of land prior to 8-8-1979.

LOT, THROUGH. A lot other than a corner lot fronting on more than one street.

LOT WIDTH. The width of a lot measured at the building line and at right angles to its depth.

MAJOR STREET. A portion of the Comprehensive Plan adopted by the city, indicating the general locations and functional classifications for arterial and collector and other major streets.

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

OPEN SPACE. An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts and any other recreational facilities that the Planning Commission deems permissive. Streets, structures for habitation and the like shall not be included.

OUTLOT. Property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision.

PARKING SPACE. An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress.

PEDESTRIAN WAY. A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.

PLANNED UNIT DEVELOPMENT. Special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in Ch. 152 of this code and as approved by the Council.

PLANNING COMMISSION. The appointed planning body designated by the Council as authorized by statute.

PLAT. A map, drawing or chart on which the subdivided plan of the subdivision is presented to the Planning Commission and Council for approval, and which he intends in final form to record; a map which delineates the subdivision of land. A **PLAT** commonly shows lots, blocks and other information relevant to the development and improvement of the property.

PLAT, FINAL. The final plan of the plat, subdivision or dedication prepared for filing or recording in conformance with this chapter.

PLAT, PRELIMINARY. The preliminary plan of the plat, subdivision or dedication prepared in accordance with the requirements of this chapter.

PRIVATE STREET. An approved privately owned open unoccupied space other than a public street or alley reserved as the principal means of vehicular access to abutting property.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, landscaping, parking area, lot improvement, utility line or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

PUBLIC WAY. An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other way in which the general public or a public entity has a right, or which are dedicated, whether improved or not.

REPLAT/RESUBDIVISION. A change in a map of an approved or recorded subdivision plat if such change affects any street layout, area reserved for public use, easement or any lot line or if it affects any map or plan legally recorded prior to the adoption of this chapter or any preceding subdivision ordinance.

RIGHT-OF-WAY. A strip of land taken or dedicated for use as a public way.

SANITARY AND IMPROVEMENT DISTRICT. A special taxing body created by the District Court for the purpose of constructing, financing and maintenance of capital improvements such as streets, sewers, sidewalks, utilities and parks in a subdivision until such time as the subdivision is annexed by the city.

SETBACK LINE. A line, as shown on a recorded plat or otherwise established by the Council, beyond which no foundation of a building or structure may project.

SEWER, ON-SITE. A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

SIDEWALK. The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic. See **WALKWAY**.

SPECIAL ASSESSMENT. A lien assessed on private property on the basis of special benefit for a portion of public capital improvements in a subdivision.

STREET. A public way set aside for public travel which affords the principal means of access to abutting property. The word **STREET** includes the words **ROAD, HIGHWAY, THOROUGHFARE,**

PARKWAY and **AVENUE**.

STREET, ARTERIAL. A street, freeway, expressway and arterial, as shown in the Comprehensive Plan.

STREET, COLLECTOR. A local street that is used or intended to be used to congregate traffic from several local streets and route such traffic to a major street.

STREET, DEAD-END, TEMPORARY. A street with one end open to traffic and the other end terminating at the boundary line of the subdivision, but will be required to be extended at a later date to provide access to abutting land.

STREET, FRONTAGE (ROAD). A street dedicated adjacent to and parallel to a major street with limited or controlled access and dedicated to provide frontage access to abutting properties.

STREET, LOCAL. Any public street that is used or intended to be used for the principal purpose of serving as vehicular access to abutting property.

STREET PAVEMENT. An impervious surface such as brick, concrete or asphalt concrete subject to the approval of the city. The **PAVEMENT** width is measured from the back of the curb on one side to the back of the curb on the other side.

STREET RIGHT-OF-WAY. The area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

SUBDIVIDER. The owners, developers or agents of persons or corporations effecting subdivision.

SUBDIVISION. The division of land into two or more lots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development; except that, the division of land in which the smallest parcel created is more than ten acres and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall not be considered a **SUBDIVISION**. **SUBDIVISION** shall include the sale of any land and/or the creation of any easements or the lease of any land for new building development.

SUBDIVISION, ADMINISTRATIVE. Any further subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way is involved, and such subdivision complies with existing ordinance requirements concerning minimum areas and dimensions of such lots and blocks.

SUBDIVISION CHECKLIST. An administrative list of review statements and questions that must be completed prior to City Planning Commission review or Council approval of preliminary or final plats.

SURVEYOR. Any person registered to practice land surveying in the state.

VARIANCE. A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the

actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

VICINITY MAP. A drawing located on the plat which sets forth by dimensions or other means the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the city in order to better locate and orient the area in question.

WALKWAY. A dedicated public way, four feet or more in width, for pedestrian use only, whether along the side of a road or not.

YARD. A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; however, fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any **YARD** subject to height limitations and requirements limiting obstruction of visibility and subject to the district regulations of any zoning regulations.

YARD, FRONT. A yard extending across the front of a lot between side lot lines. There shall be a required front yard on each street side of a corner lot. Through lots shall require frontages on both streets.

YARD, REAR. A yard extending across the rear of the lot between side lot lines.

YARD, SIDE. A yard extending between the front yard line and rear yard line.

YARD, SPECIAL. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies.

ZONING ADMINISTRATOR. The person authorized and empowered by the Council having jurisdiction to administer the requirements of this chapter.

ZONING AREA. The area subject to the provisions of zoning and subdivision regulations as set out on the official zoning map of the city.

ZONING DISTRICT. An area delineated on a zoning map for which uniform use regulations are specified.

(2002 Code, § 74-6) (Ord. 93-12, passed 9-28-1993)

Statutory reference:

"Subdivision" defined, see *Neb. RS 19-921*

APPLICATION OF REGULATIONS

§ 151.020 GENERALLY.

Any plat for each subdivision or each part of a subdivision lying within the jurisdiction of this chapter shall be prepared, presented for approval and recorded as prescribed in this chapter. The regulations contained in this chapter shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. Further, the regulations set forth by this chapter shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this chapter, except as otherwise provided in this chapter.

(2002 Code, § 74-41) (Ord. 93-12, passed 9-28-1993)

§ 151.021 APPLICABILITY.

~~(A) Each separate principal use building within the planning jurisdiction of the city shall be situated on a separate and single subdivided lot of record unless otherwise provided in Ch. 152 of this code.~~

(B) No subdivision of land shall be permitted within the city planning jurisdiction unless a plat is approved in accordance with provisions of this chapter.

(C) This chapter shall apply not only to subdivisions as set forth in this chapter but shall also apply, insofar as payment of costs for improvement of subdivisions is concerned, to those subdivisions or parts of subdivisions already platted and approved, which are undeveloped, wholly or partially.

(D) This chapter shall not apply to subdivision of burial lots in cemeteries.

(E) This chapter shall not apply to a division of land for agricultural purposes into lots or parcels of **more than** ten acres ~~or more~~ and not involving a new street.

(2002 Code, § 74-42) (Ord. 93-12, passed 9-28-1993)

§ 151.022 PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Whenever the provisions of this chapter require or impose higher standards than are required in any other ordinance, the provisions of this chapter shall govern. Wherever the provisions of any other ordinance require or impose higher standards than are required by the provisions of this chapter, the provisions of such ordinance shall govern.

(2002 Code, § 74-43) (Ord. 93-12, passed 9-28-1993)

§ 151.023 SAVING PROVISION.

This chapter shall not be construed as abating any action now pending under or by virtue of prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the city under any section or provision existing at the time of adoption of this chapter, or as vacating or

annulling any rights obtained by any person by lawful action of the city, except as shall be expressly provided for in this chapter.

(2002 Code, § 74-44) (Ord. 93-12, passed 9-28-1993)

PLAT REVIEW AND SUBMITTAL REQUIREMENTS

§ 151.035 SUBDIVISION, WHEN REQUIRED.

It shall be unlawful for the owner, agent or person having control of any land within the corporate limits of the city or within **the extraterritorial zoning jurisdiction** ~~two miles of its corporate limits~~ to subdivide land, except in accordance with Neb. RS 15-406 and 15-901 and the provisions of the title; provided, however, that, any subdivision of land caused by the acquisition of land by the federal government, the state, any county, the city or any village, incorporated or unincorporated, within the jurisdiction of the city, shall be deemed to have received approval as required by Neb. RS 15-901. This provision shall apply to all such subdivisions occurring both before and after the effective date of the ordinance from which this section derives.

(2002 Code, § 74-101) (Ord. 93-12, passed 9-28-1993)

§ 151.036 ADMINISTRATIVE SUBDIVISIONS.

(A) *Administrator.* The Zoning Administrator of the city is designated as the employee of the city who is authorized to approve, on behalf of the city, further subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way is involved, and such subdivision complies with the existing ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the following conditions are met:

(1) The tract of land has not been previously subdivided twice as an administrative subdivision or a lot that has been previously split twice under the lot split procedures in the 1979 subdivision regulations, Ord. 947;

(2) The subdivision does not involve the dedication of full-width streets;

(3) The subdivision involves the replatting, consolidation or development of one or more lots into not more than four lots;

(4) The subdivision would not require the vacation of any occupied utility easements; and

(5) In the opinion of the Zoning Administrator, the plat is not contrary to the Comprehensive Plan or other plans for the area.

(B) *Administrative application for administrative subdivision approval.* An application for an administrative subdivision approval shall be submitted to the Zoning Administrator. The following shall be submitted with the application:

- (1) Application fee, payable at the City Clerk's office;
- (2) **One** ~~Two~~ reproducible Mylar copies of the plat at a scale of one inch to 100 feet;
- (3) One **pdf reduced** copy of the plat ~~which is eight and one half inches by 11 inches or eight and one half inches by 14 inches at a scale of two inches equals 100 feet;~~
- (4) **Two paper** ~~Eight~~ copies of the plat; and
- (5) Information as required under division (H) below.

(C) *Administrative review.* Upon filing, the Zoning Administrator shall forward the application and supplemental information with a request for comments in seven working days from the following:

- (1) City Electric Department;
- (2) City Fire Department;
- (3) City Police Department;
- (4) City Street Department;
- (5) City Water/Wastewater Department;
- (6) School District; and
- (7) County, if applicable.

(D) *Administrative action.* The Zoning Administrator shall approve or disapprove the plat within 15 working days of the filing date. In the event of disapproval, the Zoning Administrator shall give the owner/subdivider a written statement of reasons for the disapproval.

(E) *Administrative certificate of approval.* In lieu of §§ 151.037 and 151.038 of this chapter, plats eligible for administrative approval shall include a certificate of approval to be signed by the Zoning Administrator and attested by the City Clerk. Upon receiving administrative approval, the plat shall be filed with the Register of Deeds in accordance with § 151.038 of this chapter.

(F) *Appeal at administrative disapproval.* The owner/subdivider has the privilege of requesting Planning Commission and Council review and approval in accordance with § 151.037 of this chapter if the Zoning Administrator has disapproved the plat or has not taken action within 15 working days of filing of the plat.

(G) *Planning Commission and Council review and action.* If the plat does not qualify for administrative approval or has been disapproved by the Zoning Administrator, an application for subdivision shall be submitted in accordance with §§ 151.037 and 151.038 of this chapter.

(H) *Administrative subdivision plat information.* The subdivision plat shall be prepared in accordance with the final plat standards in § 151.038 of this chapter.

(I) *Subdivision plat filing.* The City Clerk's office shall be responsible for filing the plat in the Register of Deeds' office in the county.

(J) *Subdivision filing fees.* The owner/subdivider shall be responsible for the payment of all plat filing fees.

(2002 Code, § 74-102) (Ord. 93-12, passed 9-28-1993; Ord. 2010-13, passed 7-12-2010)

§ 151.037 PRELIMINARY PLAT PROCEDURES.

(A) *Generally.* All preliminary plats shall be prepared in conformance with the provisions of this chapter and in conformance with the city's Comprehensive Plan. The subdivider shall be responsible for such conformance.

(B) *Preapplication meeting.* A preapplication meeting between the applicant or his or her representative, the Zoning Administrator and other city departments will be required prior to the submission of an application for approval of a preliminary plat. No application for preliminary plat will be accepted by the Zoning Administrator until after the preapplication meeting. Preapplication meetings should be scheduled through the Zoning Administrator. The purpose of the preapplication meeting is to review policies, procedures and forms required by the city and to discuss the applicant's request. The applicant shall provide the following minimum information as part of a conceptual review sketch plan:

(1) The proposed layout of streets, lots and utilities in relation to existing streets, utilities, topography and other conditions; and

(2) A general location map showing the proposed subdivision and its relationship to existing abutting subdivisions and community facilities in the area, such as streets, alleys, schools, parks, commercial areas and other data supplementing the subdivision plan which outline or describe all of the proposed development as it relates to existing conditions.

(C) *Preliminary plat application.*

(1) The subdivider shall submit a complete application at least 15 days prior to the next regular meeting of the Planning Commission at which the request is to be heard.

(2) Upon submission of the application, the Zoning Administrator shall check it for completeness. If complete, the application shall be docketed for hearing at the next Planning Commission meeting. If the application is incomplete, the Zoning Administrator shall not docket the application for hearing and shall notify the subdivider that the application is incomplete and specify what additional data is needed. The Zoning Administrator shall notify the subdivider of any incompleteness within five days of the date of filing of the application. Any such application shall not be docketed for such meeting, but shall be docketed for the next regular Planning Commission meeting.

(D) *Preliminary plat fees.* A preliminary plat review fee shall accompany the application. Such fee shall be in accordance with the schedule of fees adopted by the Council.

(E) *Zoning Administrator review.* The Zoning Administrator shall, within seven working days from the date of application, transmit a copy of the proposed preliminary plat to the Board of Education of the School District involved, the city utility departments, the City Fire Department and any other department or agency that may be affected by the plat as the Commission may have designated. Such department or agency, except the Board of Education, shall have seven working days to review the referred preliminary study and report back to the Zoning Administrator any requirements or recommendation pertinent to approval of the plat. The Zoning Administrator shall examine the preliminary plat as to compliance with laws and ordinances of the approved master plan, other official plans and good planning principles; analyze the recommendations submitted by other departments and agencies; coordinate these recommendations; and submit his or her recommendations to the Planning Commission at the next regular meeting.

(F) *Planning Commission action.* The Planning Commission shall consider all evidence presented by the subdivider, the Zoning Administrator and others and shall approve or disapprove the preliminary plat, and shall within ten days of the meeting, transmit its recommendation along with all supporting papers to the Council. A copy of the recommendation shall be sent to the subdivider, and one copy shall be retained in the permanent files of the Planning Commission.

(G) *Council action.* The Council shall consider and act upon the Planning Commission's recommendation, and shall approve or disapprove the preliminary plat. In the event of disapproval, the Council shall notify the Planning Commission and state specific reasons for disapproval, a copy of which shall be transmitted to the subdivider. Approval by the Council shall be effective for a period of 12 months, after which, if the final plat has not been submitted to the Planning Commission for approval or if an extension has not been granted by the Planning Commission, reapproval of the preliminary study by the Planning Commission and Council shall be required.

(H) *Preliminary plat information.* A preliminary plat shall be based on a legal description of the property as shown by the land records in the office of the Register of Deeds. A preliminary plat shall meet the design standards set forth in this chapter. Plats shall be at an adequate scale to clearly show all necessary information and in no case smaller than one inch equals 100 feet. The preliminary plat of a subdivision shall show or be accompanied by the following information:

(1) Copies of the plat and one reduced copy of the plat ~~which is eight and one half inches by 11 inches or eight and one half inches by 14 inches; scale one inch equals 200 feet;~~

(2) Name of subdivision, legal description and owners of property;

(3) Name of subdivider, engineer, landscape architect or surveyor;

(4) Scale specified and bar scale;

(5) North point and date;

(6) Names of adjoining property owners or subdivision;

(7) The location and dimensions in feet and hundredths of the property lines, lot lines and

building setback line;

(8) Names and dimensions of all existing and proposed street rights-of-way and pavement widths;

(9) The location and size of existing and proposed utility lines, including water and sewer lines, and any other utility installations, including underground natural gas, electrical or telephone lines, adjacent to or within the proposed subdivision or the location of the nearest available such utilities;

(10) Existing and proposed topographic contours at two-foot intervals if the average slope is less than 5% and at five-foot intervals if the average slope is 5% or more;

~~(11) The location of existing trees with trunks 12 inches in diameter or greater, measured two feet above the ground. Clumps of trees may be identified as a group of trees without precisely locating each tree;~~

(12) A clear indication of the proposed course of surface water drainage from the point where the water enters and leaves the subdivision together with all drainage within the subdivision outside of the proposed subdivision to the point where such water enters a watercourse;

(13) An indication of any area subject to flooding as determined by the FIRM flood hazard insurance maps of the city;

(14) Location and dimensions of any proposed sites, parks or other lands reserved or required to be reserved for public use in accordance with the Comprehensive Plan and this chapter;

(15) Proposed and existing easements, dedications and reservations of land required;

(16) A legend stating the total acreage, the number of lots, a computation of lot density and the total lineal feet of streets and alleys;

(17) A map indicating plans for the development of the entire area if the proposed plat is a portion of a larger holding intended for subsequent development. Preliminary engineering plans for all improvements for the entire holding shall be part of the requirement;

(18) A vicinity map presented on the preliminary plat showing the geographic relationship of the proposed subdivision to the surrounding street system. Vicinity maps shall be prepared at a scale of no smaller than one inch equals 2,000 feet; and

(19) If the proposed subdivision area will not be serviced by city utilities, a copy of Form SD On-Site Wastewater permit application required by the Nebraska Department of Environmental Quality (NDEQ) will need to accompany the preliminary plat submittals.

(2002 Code, § 74-103) (Ord. 93-12, passed 9-28-1993; Ord. 2009-6, passed 4-21-2009)

§ 151.038 FINAL PLAT SUBMISSION REQUIREMENTS.*(A) Generally.*

(1) Final plats shall be submitted to the Zoning Administrator within one year of approval of the preliminary plat unless an extension is granted by the Planning Commission. The final plat shall conform to the approved preliminary plat and any conditions of such approval and to the requirements of all applicable ordinances and the requirements of this chapter.

(2) If desired by the subdivider, the final plat may constitute only a portion of the area contained in the approved preliminary plat which the subdivider proposes to record and develop.

(3) The subdivider shall submit a complete application at least 15 days prior to the next meeting of the Planning Commission at which the request is to be heard.

(4) Upon submission of the application, the Zoning Administrator shall check it for completeness. If complete, the application shall be docketed for hearing at the next Planning Commission meeting. If the application is incomplete, the Zoning Administrator shall not docket the application for hearing and shall notify the subdivider that the application is incomplete and specify what additional data is needed. The Zoning Administrator shall notify the subdivider of any incompleteness within seven working days of the date of filing of the application. If the additional data is not provided to the Zoning Administrator at least 15 days prior to the Planning Commission meeting, such application shall not be docketed for such meeting but shall be docketed for the next following Planning Commission meeting.

(B) Final plat fees. A final plat review fee shall accompany the application. Such fee shall be in accordance with the schedule of fees adopted by the Council.

(C) Final plat information. The subdivider shall prepare and submit a final plat at a scale of not less than one inch equals 100 feet. The plat shall be prepared under the supervision of and certified by a registered state land surveyor. The plat, including all signatures, shall be drawn with permanent black ink on reproducible Mylar. The final plat of a subdivision shall show, or be accompanied by, the following information:

- (1) **One** ~~Two~~ reproducible Mylar copies of the plat;
- (2) **Two paper** copies of the plat and one **pdf copy submitted electronically** ~~reduced copy of the plat which is eight and one half inches by 11 inches or eight and one half inches by 14 inches. Scale one inch equals 200 feet;~~
- (3) Name of the proposed subdivision;
- (4) Name of the owner of the subdivision;
- (5) Name of the land planner, surveyor or engineer who prepared the final plat;

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(6) Date, north arrow and graphic scale;

(7) Location by specific legal description indicating boundary lines with accurate lengths, angles and bearings, based upon an accurate traverse. These boundary lines shall be determined by a balanced and closed survey conducted in the field;

(8) Tract boundary lines, rights-of-way of all streets, alleys and other rights-of-way, property lines of all lots and other sites with dimensions given in feet and hundredths;

(9) Location, dimensions in feet and hundredths of all easements, together with the purpose of each;

(10) Radii, central angles, tangents, lengths of arcs, curvature angles at street intersections and a complete street traverse of each street within and on the perimeter of the plat;

(11) If an area is subject to flooding, the minimum floor elevation for each lot subject to such flooding;

(12) Accurate location, size, type and material of all monuments, an indication whether such monuments were found or set, and the elevation of at least one such monument;

(13) All lot and block numbers;

(14) ~~Building setback lines;~~

(14) Accurate outlines of any area to be dedicated or reserved for public use or acquisition with the purposes indicated. Any areas to be reserved by covenant or deed restriction for the common use by the owners in the subdivision shall also be noted;

(15) Certification and signature by the surveyor certifying to the effect that the final plat accurately represents a survey made by him or her and under his or her direct supervision, that any changes from the description appearing in the last record transfer of the land contained in the final plat are so indicated, that all monuments shown actually exist or will be installed and their position is correctly shown, and that all dimensional and geodetic data are correct;

(16) Certification signed and notarized by all parties holding title or having any title interest in the land contained in the final plat and consenting to the preparation and recording of the plat as submitted and consenting to all dedications noted. A registered abstractor or title insurance agent must perform the title search for any parties holding title or having any title interest;

(17) **Certification by the registered abstractor that verifies any parties holding title or having any title interest.**

(18) Certification of approval of the final plat by the Planning Commission; and

(19) Certification of approval of the final plat by the Council;

(20) **Certification of approval of the final plat by the county board if the land is outside of the city limits.**

(21) Certification of approval of the final plat by the zoning administrator.

(D) *Final plat construction plans and specifications.*

(1) The subdivider shall submit construction plans and specifications in accordance with the requirements for all improvements and installations required by this chapter.

(2) The construction plans and specifications shall consist of all cross sections, profiles and all other engineering data necessary for the proper design and construction of all improvements and installations required by this chapter, including, but not limited to, the following:

- (a) Streets;
- (b) Storm sewers and other elements of the drainage system;
- (c) Sanitary sewer system;
- (d) Water system;
- (e) Monuments and markers;
- (f) Sidewalks and pedestrian ways; and
- (g) Any construction elements peculiar to the subdivision.

(E) *Final plat engineering data.* The subdivision agreement shall require that all final engineering plans and specifications for improvements be furnished by the subdivider to the city for approval prior to contracting for construction of any improvements.

(F) *Final plat; approval; procedure.*

(1) No approved final plat shall be released by the City Clerk until a subdivision agreement shall have been entered into between the subdivider and the city. The City Attorney shall prepare such agreement with the assistance of the City Administrator and Zoning Administrator.

(2) The agreement shall provide for the needs of the subdivision, including, but not limited to, pavement, water mains, sanitary sewers, storm sewers, sidewalks, grading, waste treatment and open space requirement. Security may be required to ensure performance under the agreement.

(G) *Final plat application acceptance or refusal.*

(1) Upon submittal of the final plat, the Zoning Administrator shall review the plat to ensure all data required has been provided. The Zoning Administrator shall have the right to refuse the submittal of the plat should the required data not be shown or presented.

(2) The Zoning Administrator shall distribute one copy of the final plat along with a request for comments, to be returned within five working days, to each of the following:

- (a) City utility departments;
- (b) City Police Department;
- (C) City Fire Department; and
- (d) Any other department or agency that may be affected by the plat.

(H) *Recommendation.* The Zoning Administrator shall then develop a recommendation, based on the department review meeting, and forward the recommendation and the final plat to the Planning Commission for its consideration at a regular meeting.

(I) *Planning Commission approval.* If the Planning Commission approves the final plat, the Zoning Administrator shall forward the Planning Commission's recommendation and the final plat to the Council for its consideration at a regular meeting.

(J) *Council action.* The Council shall consider and act upon the Planning Commission's recommendations and shall approve or disapprove the final plat. In the event of disapproval, the Council shall notify the Planning Commission and state specific reasons for disapproval, a copy of which shall be transmitted to the subdivider. If approved, final plat shall be filed with the county Register of Deeds' office.

(2002 Code, § 74-104) (Ord. 93-12, passed 9-28-1993; Ord. 2008-11, passed 9-2-2008)

§ 151.039 VACATION OF PLATS.

Plats shall be vacated according to the following.

(A) Any plat or any part of any plat may be vacated by the owner of the property, at any time before the sale of any lot, by a written instrument, duly executed and approved, to which a copy of such plat shall be attached, declaring the plat to be vacated.

(B) Such written instrument shall be approved by the Planning Commission in like manner as plats of subdivisions. The Council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(C) Such written instrument when executed, acknowledged and approved shall be recorded in like manner as plats of subdivisions and being duly recorded shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, commons, public grounds laid out or described in such plat.

(D) In cases where any lots have been sold, the plat may be vacated by all owners of the lots in such plat joining in the execution of the written instrument.
(2002 Code, § 74-105) (Ord. 93-12, passed 9-28-1993)

SUBDIVISION DESIGN REQUIREMENTS

§ 151.050 GENERAL REQUIREMENTS.

(A) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, erosion or other menace. If, following adequate investigation conducted by all public agencies concerned, it is determined that land to be subdivided cannot be used without endangering the health, safety, welfare or prosperity of the community, or would necessitate an excessive expenditure of public financial resources for sewage and water facilities, other public facilities and streets, the subdivision plat shall not be approved unless the subdivider formulates adequate methods for meeting such problems.

(B) All subdivision design shall conform to standards of the Comprehensive Plan and to Ch. 152 of this code.

(C) All required improvements shall be constructed or installed to conform to the provisions of this chapter and specifications.
(2002 Code, § 74-141) (Ord. 93-12, passed 9-28-1993)

§ 151.051 STREETS.

(A) *Generally.*

(1) *Conformity with Comprehensive Plan.* The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

(2) *Street extensions.* The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas being subdivided. Where at the determination of the Planning Commission it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Planning Commission deems it necessary, such deadend streets shall be provided with a temporary turnaround having a radius of at least 50 feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in this chapter for a street in its category.

(3) *Dedication of right-of-way for new streets.* The dedication of right-of-way for new streets

measured from lot line to lot line shall be as shown on the Comprehensive Plan, or, if not shown on that plan, shall meet the right-of-way requirements as provided in division (B) below. All streets classified as arterial streets by the Comprehensive Plan shall have all points of access approved by the Planning Commission.

(4) *Dedication of right-of-way for existing streets.* Subdivisions platted along existing streets shall dedicate additional right-of-way, if necessary, to meet the minimum street width requirements set forth in this chapter. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, half the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated. Dedication of half the right-of-way for a proposed street along the boundaries of land proposed for subdivision shall be prohibited, except where essential to the reasonable development of the subdivision and where it is found to be practical and reasonable to require the dedication of the other half of the right-of-way when adjoining property is subdivided.

(5) *Intersections.* Streets shall intersect as nearly as possible at an angle of 90 degrees, and no intersection shall be at an angle of less than 60 degrees. Street curb intersections shall be rounded by radii of at least 20 feet. When the smallest angle of street intersection is less than 75 degrees, the Council may require curb radii of greater length. Whenever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at such street corner to less than nominal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such construction. No lot or other parcel of land which abuts on and has access to either a collector or minor street shall have a service drive, curb cut or other means of access to an arterial street within 75 feet of the right-of-way of such arterial street.

(6) *Curves in streets; horizontal and vertical.*

(a) A tangent at least 100 feet long shall be introduced between reversed curves on arterial and collector streets.

(b) Where there is a deflection angle of more than ten degrees in the horizontal alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made.

1. The minimum radius of curves shall be:

<i>Street Type</i>	<i>Minimum Curve Radius</i>
Arterial	510 feet
Collector	380 feet
Local	100 feet

2. Minimum sight distance on vertical curves shall be:

<i>Street Type</i>	<i>Minimum Sight Distance</i>
Arterial	350 feet

Collector	300 feet
Local	200 feet

(c) Sight distance is measured from a driver’s eyes, which are assumed to be four and one-half feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets, showing natural and finished grades, drawn to an approved scale, may be required.

(7) *Street grades and elevations.*

(a) All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall be not less than 0.5%. The Planning Commission shall not approve streets which will be subject to inundation or flooding.

(b) Street grades shall conform to the minimum requirements provided in division (B) below.

(8) *Marginal-access streets.*

(a) Where a subdivision fronts on or contains an existing or proposed arterial street, the Council shall require marginal-access streets in all situations indicated below or reverse frontage lots with screen planting located in the non-access arterial street frontage along the rear of the lots, or such other treatment as may be necessary for adequate protection of properties from the arterial street and to protect and preserve the safety and traffic handling capabilities of the arterial street.

(b) Marginal-access streets shall be required by the Council for subdivisions fronting on arterial streets where existing development would not prohibit the extension of a marginal-access street for at least a distance of 150 feet from either side lot line of the lot of lots being subdivided or if the frontage of the subdivision in question is 300 feet or more. If lots back up to the arterial street and such lots have access other than the arterial street frontage, a marginal-access street may not be required.

(9) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall be prohibited.

(10) *Cul-de-sac.* Minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than 600 feet and shall be provided at the closed end with a turnaround having a diameter at the outside of the pavement of at least 70 feet and a diameter at the outside of the right-of-way of at least 100 feet. If center islands are provided in the turnaround, the pavement width shall be at least 31 feet; and the subdivider shall make provisions for the maintenance of the island by owners of lots fronting on the turnaround in the deed restrictions.

(11) *Rectangular or square cul-de-sac streets.* With Planning Commission and Council approval, minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than 600 feet and provide the minimum unobstructed moving lane with the proper radius and dimension and simultaneously meet the need for spillover parking.

(12) *Street names.*

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(a) Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway or similar suffix.

(b) Whenever a street alignment changes direction more than 45 degrees without a return to the original alignment within a distance of 500 feet, the name of the street shall be changed at the point of curvature.

(c) Whenever a cul-de-sac street serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac. To avoid duplication and confusion, the proposed names of all streets shall be approved by the city prior to such names being assigned or used.

(13) *Private streets and reserve strips.* New private streets may be created provided such streets are specifically authorized by the Planning Commission and Council as an exception to the terms of this chapter. There shall be no reserve strips in a subdivision, except where their control is definitely vested in the city under conditions of approval by the Planning Commission as authorized in this chapter. New private streets and reserve strips may be created; provided, such streets are specifically authorized by the Commission and the Council as an exception to the terms of this chapter. (2002 Code, § 74-142)

(B) *Minimum street standards.*

<i>Street Classifications</i>	<i>Minimum Right-of-Way</i>	<i>Pavement Width</i>	<i>Minimum Number of Traffic Lanes</i>	<i>Maximum Grade</i>	<i>Minimum Centerline Radius</i>
Arterial street	80 feet	36 feet	2 lanes	7%	700 feet
Collector street	70 feet	32 feet	2 lanes	7%	300 feet
Cul-de-sac	100 feet diameter	32 feet*	2 lanes	10%	100 feet
Local street	60 feet	32 feet	2 lanes	10%	200 feet
Loop street	60 feet	32 feet	n/a	n/a	n/a
Marginal access (frontage road, no parking)	50 feet	25 feet	2 lanes	10%	100 feet
Urban-rural access (no parking)	60 feet	25 feet	2 lanes	10%	200 feet

NOTES TO TABLE:

1. Pavement width measured back to back of curb.
2. *Minimum right-of-way diameter for the cul-de-sac turnaround shall be 100 feet minimum.

(2002 Code, Ch. 74, Schd. A)

(Ord. 93-12, passed 9-28-1993)

§ 151.052 BLOCKS.

The lengths, widths and shapes of blocks shall be determined with due regard to the provisions of adequate access and circulation, building sites suitable to the needs of the use contemplated, zoning requirements regarding minimum lot sizes, widths and frontages and the limitations or opportunities presented by the topography. Block lengths, except in unusual circumstances, shall not exceed 1,320 feet.

(2002 Code, § 74-143) (Ord. 93-12, passed 9-28-1993)

§ 151.053 LOTS.

(A) *Appropriateness.* The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(B) *Lot dimensions.* Lot dimensions shall conform to the requirements of the applicable zoning district. Residential lots not served by a public sewer may be required to be larger to protect against health hazards of on-site sewage disposal.

(C) *Corner lots.* Corner lots for residential uses shall have additional width to permit appropriate building setback distances and orientation to both streets.

(D) *Access to lots.* The subdividing of land shall provide each lot with satisfactory access to a public street. The subdividing of land shall be such as to provide each lot with satisfactory vehicular access by means of public street or approved private street.

(E) *Double-frontage and reverse-frontage lots.* Double-frontage and reverse-frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

(F) *Depth and width of lots.* Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for off-street service and parking facilities required by the type of use and development contemplated.

(G) *Angle of side lot lines.* Side lot lines shall be substantially at right angles or radial to street lines.

(H) *Setback lines.*

(1) Building setback lines on lots shall be as regulated by the yard provisions of Ch. 152 of this code.

(2) Where the subdivider desires setback distances in excess of those minimums stipulated in Ch. 152 of this code, such shall be indicated on the final plat.

(I) *Sidewalks.*

(1) Sidewalks shall be labeled upon the improvement plans and installed by the subdivider in subdivisions, except where unusual conditions exist which eliminate the need for sidewalks and an exception is specifically granted by the Council.

(2) Sidewalks shall be installed in all subdivisions within the boundaries of the plat according to the following:

(a) Along both sides of all streets within the subdivision, in which case the edge of the sidewalk away from the street shall normally be placed at a distance of eight feet behind the curb;

(b) Parallel to any streets abutting and/or running along the outer perimeter of the subdivision;

(c) All sidewalks shall extend to the street pavement at all intersections at midblock crossings where appropriate and shall be equipped with handicap access ramps;

(d) In neighborhoods planned as cluster developments, sidewalk locations may be adjusted to accommodate the most efficient pedestrian circulation through and to and from the development; and

(e) The Council may modify the requirements of this section, but only in instances where park, railroad, extreme topographical conditions or other unusual conditions make sidewalk installation non-essential or unnecessary on both sides of the street.

(J) *Minimum sidewalk width.* The minimum sidewalk width shall be four feet; however, in multiple-family residential developments and non-residential developments, sidewalks shall be of a width suitable for the anticipated traffic, but not less than four feet, as determined by the Council. (2002 Code, § 74-144) (Ord. 93-12, passed 9-28-1993)

§ 151.054 FLOOD HAZARDS.

Land subject to flooding and land deemed to be topographically unsuitable for residential or other development shall not be platted for such purposes. Such land may be set aside on the plat for such uses as will be compatible with the hazards associated with flooding or erosion. The Planning Commission shall require that any building lot be elevated above the 100-year flood elevation or require that any development be flood-proofed in accordance with the flood hazard zoning provisions of Ch. 152 of this code.

(2002 Code, § 74-145) (Ord. 93-12, passed 9-28-1993)

§ 151.055 EASEMENTS.

(A) *Utility easements.* Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 12 feet in width, six feet each side of the lot line.

(B) *Waterway easements.* Where a subdivision is traversed by a watercourse, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width will be adequate for the purpose of retaining the water-handling capacity of the watercourse.

(2002 Code, § 74-146) (Ord. 93-12, passed 9-28-1993)

§ 151.056 COMMUNITY ASSETS.

In all subdivisions, due regard shall be shown for natural features, such as trees, unusual rock formations, watercourses and any sites having historical significance, which if preserved will add attractiveness and value to the area. The Council shall have the authority to require preservation of such natural features as it deems reasonable.

(2002 Code, § 74-147) (Ord. 93-12, passed 9-28-1993)

§ 151.057 CONFORMANCE WITH OTHER REQUIREMENTS.

No final plat of land within the area of force and effect of existing zoning regulations will be approved unless it conforms with such regulations. Whenever there is a variance between the minimum standards set forth in this chapter and those contained in the Building Code, or other official regulations, the highest standard shall apply.

(2002 Code, § 74-148) (Ord. 93-12, passed 9-28-1993)

REQUIRED SUBDIVISION IMPROVEMENTS

§ 151.070 GENERAL REQUIREMENTS.

(A) The subdivider shall design and construct improvements not less than the standards outlined in this chapter. The work shall be done under city supervision and inspection and shall be completed within the time fixed or agreed upon by the City Engineer. The minimum requirements for materials shall be in accordance with the standards currently in effect in the city or as approved by the City Engineer. Standards applicable to health and sanitation as required by the State Department of Environmental Control and the State Department of Health shall be the minimum standards required.

(B) Schedules of improvements shall be prepared by the subdivider. The schedules shall contain standards and classes of construction which are consistent within the zoning districts as identified in Ch. 152 of this code. The subdivider shall furnish copies of pertinent schedules and certificates of compliance as required by the City Engineer.

(C) All inspection costs and costs for required tests shall be paid by the subdivider.

(2002 Code, § 74-181) (Ord. 93-12, passed 9-28-1993)

§ 151.071 MONUMENTS, MARKERS AND PINS.

Monuments in the form of iron rods or pipes not less than five-eighths inch in diameter and extending at least 24 inches below grade 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 Council.

(2002 Code, § 74-182) (Ord. 93-12, passed 9-28-1993)

§ 151.072 STREETS.

(A) *Grading.* All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council.

(B) *Minimum pavement widths.* Pavement widths shall be measured between backs of curbs. Minimum pavement or surface widths shall be provided as indicated in § 151.051(B) of this chapter.

(C) *Street surfacing.*

(1) Minimum requirements for pavement construction shall be in accordance with this chapter or as determined by the City Engineer, Planning Commission and Council. Higher design standards may be required by the Commission and the Council to provide adequately for unusual soil conditions or extraordinary traffic volumes or other abnormal characteristics.

(2) Requirements for paving, including curb and gutter, may be waived at the request of the subdivider in the case of a subdivision wherein all of the lots in the subdivision have a minimum frontage width of 300 feet or more, subject to the approval of the City Engineer. Streets in such subdivisions shall have a crushed rock or gravel surface which meets the specifications of the city.

(D) *Curb and gutter.*

(1) Curbs and gutters shall be required for all streets within the boundaries of the subdivision unless excepted by the Council in accordance with the terms of this chapter.

(2) Curbs and gutters shall be designed and constructed in accordance with standard specifications of the city. Rolled or dish-shaped curbs shall remain an option subject to Planning Commission recommendation and Council approval unless deemed essential for storm water management.

(E) *Street name signs.*

(1) At least one street sign shall be installed at each street intersection within or on the perimeter of the subdivision and shall be located in the northeast corner of the intersection, whenever possible, and within the area between the street and sidewalk at a point approximately six inches from the sidewalk or its intended location.

(2) Street name signs of a type in use throughout the city or approved by the Council shall be erected by the subdivider at all street intersections, in conformance with §§ 154.01 through 154.04 of this code.

(F) *Culverts*. Culverts shall be constructed and installed whenever necessary as determined by the Commission to provide adequate drainage in accordance with recommendations of the City Engineer. (2002 Code, § 74-183) (Ord. 93-12, passed 9-28-1993)

§ 151.073 SIDEWALKS.

Sidewalks shall be provided in conformance with the requirements of § 151.053 of this chapter and shall be constructed of portland cement concrete or other acceptable material as approved by the Council. Sidewalk thickness shall **be specified by City construction standards** ~~not be less than four inches~~. The subdivider need not install such sidewalks until building construction is completed on a lot-by-lot basis to avoid damage by heavy equipment. (2002 Code, § 74-184) (Ord. 93-12, passed 9-28-1993)

§ 151.074 DRIVEWAYS.

Driveways shall have a maximum grade of 14%. Curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway pavement on each side. (2002 Code, § 74-185) (Ord. 93-12, passed 9-28-1993)

§ 151.075 STREET AND WALKWAY LIGHTING.

(A) The subdivider shall install, **at his or her cost**, streetlights of a type acceptable to the city at each entrance (street or sidewalk) into the subdivision and at each street intersection within the subdivision and at such intermediate points so that the streetlight spacing does not exceed 300 feet.

(B) New subdivision lighting shall utilize underground wiring, and easements for such wiring shall be indicated on the plat. (2002 Code, § 74-186) (Ord. 93-12, passed 9-28-1993)

§ 151.076 STREET TREES.

Street trees shall be species which are resistant to damage and disease and which do not cause interference with underground and overhead utilities, street lighting or visibility at street intersections. Existing trees should be retained in new subdivisions wherever possible. (2002 Code, § 74-187) (Ord. 93-12, passed 9-28-1993)

§ 151.077 UTILITY AND DRAINAGE FACILITIES.

(A) *Generally.*

(1) Sanitary sewer, storm sewer, water distribution, electrical, gas, telephone, communications cable and all other utility lines shall be installed in rear lot easements wherever practical. Where it is impractical to install such utility lines in rear easements, they shall be installed within the unpaved portions of the street right-of-way, except for sanitary and storm sewer lines, which may be installed in the paved portion of the street right-of-way if it is impossible to install them in the unpaved portion.

(2) When it is impossible to install sanitary and storm sewer lines in the unpaved portion of the street right-of-way, all such utility lines, including service connections, shall be completely installed and inspected and approved by the City Engineer following the grading of the street and prior to the application of any pavement base.

(3) Where sanitary and storm sewer lines are to be installed in the unpaved portion of the street right-of-way, the installation of service connections may be delayed; provided that, at such time as these service connections are installed, they shall be installed without breaking or weakening the existing pavement. Where rock is known to exist beneath the pavement area at such depth as to interfere with the installation of service connections, the complete installation of service connections shall be required prior to the application of any pavement base.

(B) *Water supply improvements.* A water distribution system shall be designed and constructed by the subdivider to provide adequate water service to all lots in the proposed subdivision. The following requirements shall apply.

(1) *Type of improvement.*

(a) Within the corporate limits of the city, a water distribution system, including all pipes, fire hydrants, valves and other appurtenances, shall be provided; and such distribution system shall be connected to the public water system in accordance with plans acceptable to the Planning Commission and the Council.

(b) Within the jurisdictional area of the city, but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public water supply line, either existing or proposed, within one year from the date of application for final plat approval, that the water line is located within 500 feet of the proposed subdivision or can be reached if the cost of connecting to the water line and installing an adequate distribution system to all lots shown upon the plat, exclusive of connections from individual structures, is equal to or less than 150% of the cost of installing an individual water supply system for all lots, adequate connecting lines to the public water system shall be constructed.

(c) If the subdivision is not so located relative to a public water line, individual wells may be installed.

(2) *Standards.*

(a) When applicable, improvement plans for a permanent water system shall be provided showing pipe sizes, type of pipe, locations of fire hydrants and valves and, if applicable, supply facilities, booster pumps, elevated or ground level storage tanks and other appurtenances.

(b) Design standards of the system shall be subject to the approval of the city in accordance with the following standards.

1. The minimum main or pipe size shall be determined by the type of uses to be served and the provision of adequate fire flow capacities. Generally, water lines shall be at least six inches in diameter.

2. The maximum distance between fire hydrants shall be determined by the city, but generally any portion of the proposed subdivision shall be within 250 feet of a fire hydrant.

3. Gate valves on cross-connecting water lines shall be so located that no single break in the distribution system shall require more than 500 feet to be out of service in high-value districts or 800 feet in other districts.

(c) Valves or cross-connecting mains shall be so located that a break in the secondary distribution system will not necessitate shutting down major distribution lines.

(d) Design standards of the water distribution system shall be in compliance with the requirements of the State Department of Health.

(C) *Sanitary sewer improvements; sanitary sewage disposal improvements.* A sanitary sewer system shall be designed and constructed by the subdivider for all lots in the proposed subdivision. The following requirements shall apply.

(1) *Type of improvements.*

(a) Within the corporate limits of the city, a sanitary sewage collection system, including all pipes and manholes, shall be provided; and such collection system shall be connected to the public sewer system in accordance with plans acceptable to the Commission and the Council.

(b) Within the jurisdictional areas of the city, but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public sewer, either existing or to be existing within one year from the date of application for final plat approval, that the sewer is located within 500 feet of the proposed subdivision or can be reached if the cost of installing lateral and connecting sewers from all lots shown upon the plat, exclusive of connections from individual structures, is equal to or less than 150% of the cost of installing a private sewage collection and disposal system for all lots, adequate lateral and connecting sewers to the public sewer system shall be constructed.

(c) If the subdivision is not located relative to a public sewer system, a private collection and treatment system acceptable to the Council and appropriate to the State Department of Health and Environmental Control may be used. If on-site disposal is proposed, the subdivider shall document that acceptable percolation rates do exist on each lot; and such lots shall be adequately sized to allow for the

installation and safe operation of such systems.

(2) *Standards.*

(a) When applicable, improvement plans for a permanent sewer system shall be provided, showing pipe sizes, gradients, type of pipe, invert and finished grade elevations, location and type of manholes, treatment facilities, if applicable, and the location, type and size of all lift or pumping stations.

(b) Design standards of the system shall be subject to the approval of the city in accordance with the following standards.

1. At least eight-inch sewer lines will be installed.
2. At least four-inch service connections from the sewer line to the property line of each lot will be installed, with the location marked.
3. Manholes or cleanouts will be provided at all interceptor and lateral junctions, at the end of each line, and at all changes in direction, grade and size.

(c) Design standards of the system shall be in general compliance with the requirements of the State Department of Health.

(D) *Drainage improvements.* A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water of the subdivision and the drainage area of which it is a part. The following requirements and improvement plans shall be provided.

(1) *Drainage report.* A subdivision plat other than an administrative subdivision shall not be considered for final approval until the subdivider shall submit a drainage report prepared by a registered professional engineer or surveyor as to the existing and proposed drainage conditions if required by the Planning Commission and the Council. The report may be included on the preliminary plat or attached to the final plat and shall include an evaluation of the ability of the proposed watercourses, drainage tiles, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the runoff which would be generated by the development of the land within and above the subdivision and the impacts of such drainage on downstream drainage systems. The report shall include:

(a) Estimates of the quantity of storm water entering the subdivision naturally and estimates of such storm water when the upper watershed shall be developed in a manner in which it is zoned;

(b) Existing conditions of the watershed that may affect the proposed subdivision, such as soil type, drainage channels, obstructions and the like;

(c) Quantities of flow at each pickup point;

(d) Estimates of temporary erosion control measures necessary to control erosion during

construction;

(e) A description of an adequate drainage system within the subdivision and its design capacities based on a ten-year storm; and

(f) A description of the impacts that the proposed drainage system will have on property downstream until such water drains into a recognized watercourse.

(2) *Drainage requirements.* The subdivider shall provide adequate drainage facilities within the subdivision, including storm sewers determined to be necessary by the Commission upon recommendation of the City Engineer. If storm sewers are not necessary, all open ditches shall be graded and all pipes, culverts and/or bridges, intersectional drains, drop inlets, bridges, headwalls, gutters and similar or related installations necessary to provide adequate surface water drainage shall be constructed and installed in accordance with plans approved by the Commission upon recommendation by the City Engineer.

(3) *Drainage system standards.*

(a) All streets shall be provided with an adequate storm drainage system, if required, of curbs, gutters and storm sewers or side ditches and as specified in the storm water management plan prepared by The Schemmer Associates, Inc., and adopted by the Council on 3-9-1993.

(b) Curb drainage inlets shall be provided at appropriate intervals along streets with curbs and gutter drainage. Where inlets connect to storm sewers, a drain inlet structure and a protective grating shall be installed.

(E) *Erosion control.* The subdivider shall be required to provide for the control of erosion of areas of the subdivision which are disturbed by grading operations by constructing temporary terraces on slopes, temporary silting basins, sod swales and spillways, and whatever may be necessary to prevent erosion and damage to adjacent properties from surface drainage as approved by the City Engineer and the Planning Commission.

(F) *Electric, gas and telephone and cable television improvements.*

(1) Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric and streetlighting wires, conduits and cables shall be constructed underground, except in cases where the City Engineer determines that topographic, bedrock or underground water conditions would result in excessive costs to the subdivider.

(2) Overhead utility lines, where permitted, shall be located at the rear of all lots. Underground utility lines may be permitted at side and front lot lines.

(3) Whenever a sanitary sewer line and electric and/or telephone line are each placed underground in the same utility easement, the following provisions shall be applicable.

(a) The total easement width shall be not less than 20 feet.

(b) The sanitary sewer line shall be installed within three feet of one side of the easement, and the electric and/or telephone lines shall be installed within three feet of the opposite side of the easement.

(2002 Code, § 74-188) (Ord. 93-12, passed 9-28-1993)

§ 151.078 IMPROVEMENT COSTS.

(A) *Extension to boundaries.* The subdivider shall be required to extend the necessary improvements to the boundaries of the proposed subdivision at his or her expense to allow for service to future anticipated developments on adjoining lands, as determined by the Planning Commission and the Council.

(B) *Off-site extensions.* If streets or utilities are not available at the boundary of the proposed subdivision or within the distances or costs established in this chapter and the Council determines that extensions across undeveloped areas are not warranted, the subdivider, if he or she wishes to proceed with the development, shall pay the cost of such off-site improvements and provide for appropriate off-site easements prior to the approval of the final plat. Such improvements shall be available for connections by subdividers of adjoining lands.

(C) *Oversize and off-site improvements.* The utilities, street pavement and other improvements required for the proposed subdivision may be required to be oversized or extended to serve nearby land or anticipated future development. This determination shall be made by the Planning Commission and the Council in consultation with the Utilities Department and the City Engineer.

(D) *Cost of oversize improvements.* Minimum street pavement widths for streets shall conform to the standards established in § 151.051 of this chapter. Minimum utility sizes shall be determined by the standards of the city with regard to providing service to the subdivision in question. Where pavement widths or larger pipe or main sizes are deemed necessary by the Planning Commission and the Council, the city or the Utilities Department shall bear the extra cost of providing such greater width or larger pipe or main sizes. The subdivider shall be required to pay for that part of the construction costs for the arterial streets, trunk sewers or water lines which are serving the proposed subdivision as determined by the Commission and the Council. The city or the Utilities Department shall pay the remainder of the costs.

(E) *Dedication.*

(1) Before final plat approval is given, the subdivider shall dedicate to the public all streets and alleys as may be required by the Planning Commission and the Council. If such streets and alleys are not to be dedicated and are to be developed as private streets, the subdivider shall make adequate provision for an owners' association with direct responsibility to and control by the property owners of the subdivision to provide for the maintenance of all such private streets and alleys and the removal of debris and snow so as to maintain adequate access at all times for fire, police, sanitation, utility and emergency vehicles. Legal assurances shall be provided which show that the association is self-perpetuating and has the authority to collect assessments from owners of property within the

subdivision to accomplish these and other related purposes.

(2) Such provisions shall also provide for agreement of the property owners that if the city is requested or required to perform any maintenance or snow removal from such streets in order to maintain adequate access, the owners shall pay the costs to the city and that, if not paid, the costs shall become a lien upon the properties until such costs are paid in full.

(2002 Code, § 74-189) (Ord. 93-12, passed 9-28-1993)

§ 151.079 SUBDIVISION IMPROVEMENT GUARANTEES.

(A) *Completion of improvements.*

(1) Prior to final plat approval, but after approval of all improvement plans and specifications, the subdivider shall complete all improvements required for the subdivision. Final plat approval shall not be given until the dedication of all appropriate improvements and their acceptance by the Council.

(2) In lieu of requiring the completion of all improvements prior to final plat approval, the Council may enter into an agreement with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this chapter and approved by the Planning Commission and the Council in a manner satisfactory to the Council. To secure this agreement, the subdivider shall provide, subject to the approval of the Council, one or more of the guarantees set forth in divisions (B), (C), (D) or (E) below.

(B) *Surety performance bond.* The subdivider shall obtain a security bond in the amount of 110% of the estimated public improvement construction costs, from a surety bonding company authorized to do business in the state. The bond shall be payable to the city and shall be in an amount to cover the entire cost, as estimated by the City Engineer, of installing all dedicated public improvements. The duration of the bond shall be until such time as the improvements are accepted by the city in accordance with division (H) below.

(C) *Escrow account.* The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the city or in escrow with a bank. The use of any instrument other than cash and, in the case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval of the Council. The amount of the deposit shall be in an amount equal to 110% of the estimated construction cost, as estimated by the City Engineer, of installing all dedicated public improvements. In the case of an escrow account, the subdivider shall file with the Council an agreement between the financial bank and himself or herself guaranteeing the following.

(1) The funds of the escrow account shall be held in trust until released by the Council and may not be used or pledged by the subdivider as security in any other matter during that period.

(2) In the case of a failure on the part of the subdivider to complete the improvements, the bank shall immediately make the funds in the account available to the city for use in the completion of those improvements.

(D) *Sequential approval of subdivision segments without guarantee.* Where a subdivision is to be developed in several sections, the Council may, at its discretion, waive the use of a guarantee on the initial sections; provided that, such sections may not be larger than 25 lots or 50% of the total number of lots in the subdivision, whichever is less. The Council shall grant final plat approval for each succeeding section's being contingent upon completion of all contracted improvements in each preceding section, and acceptance of those improvements in accordance with this section. Completion of improvements in the final section of the subdivision, which shall include at least 25 lots or 50% of the total number of lots in the subdivision, whichever is less, must be guaranteed through the use of one of the other methods detailed under this section.

(E) *Special assessment.* The city may, in accordance with adopted policies and guidelines, enter into an agreement with the subdivider to pay the cost of the required improvements through the use of a special assessment. The city shall make such arrangement for actual construction and interim financing as it deems appropriate; provided that, construction improvements in any section of the subdivision shall be completed in a time period not longer than would be allowed if another form of improvement guarantee were used.

(F) *Time limits.* Prior to the granting of final plat approval, the subdivider and the Council shall agree upon a deadline for the completion of all improvements. Such deadline shall not exceed two years from the date of final plat approval; however, the Council may extend that deadline for one additional year where the subdivider can present substantial reason for doing so and provides any additional performance surety made necessary due to inflation or increased cost of completing the improvements.

(G) *Installation of improvements.* Developers may select either method or combination of methods listed below to comply with the minimum improvement requirements:

(1) They may install the required improvements upon acceptance of plans and specifications being approved by city staff, the City Engineer and the Council.

(2) They may submit a petition requesting the city to construct street surfacing, sanitary sewer, storm drainage and water mains in the proposed subdivision by the district method. In that event, the city will prepare plans and specification for all such improvement districts and shall assess the cost of such improvements to the adjacent property, as provided by law. The size of any street improvement district, sanitary sewer district, storm drainage district or water main district shall be determined by the Council; and the construction of any such district shall be subject to the city's ability to finance any of the improvements.

(H) *Failure to complete improvements.* If any portion of the required improvements shall fail to be accepted for dedication in compliance with this section within the allocated time period, either for reason of incompleteness or for reason of substandard construction, the Planning Commission and the Council shall take one of the following actions.

(1) Where improvements have been guaranteed under division (H)(2) below, preliminary plat approval shall be revoked.

(2) Where improvements have been guaranteed under division (H)(1) above, the Planning Commission and the Council shall declare whatever security has been pledged as a guarantee to be forfeited. Where the Planning Commission is not already in possession of the guarantee, it shall immediately take the actions necessary to obtain it. Upon receipt of these securities, the Planning Commission shall use them or receipts from their sale, if that is necessary, to finance the completion of contracted improvements on the rebuilding of such improvements to the proper specifications. Unused portions of these securities shall be returned to the subdivider, bonding company or crediting institution, as is appropriate.

(I) *Inspection and certification.*

(1) The City Engineer, or other knowledgeable officials as specified by the Council, shall regularly inspect for defects in the construction of required improvements. Upon completion of these improvements, the City Engineer shall file with the Council a statement either certifying that the improvements have been completed in the specific manner or listing the defects in those improvements.

(2) Upon completion of the improvements, the subdivider shall file with the Council a statement stipulating the following:

(a) All required improvements are complete;

(b) These improvements are in compliance with the minimum standards specified by the Council for their construction;

(c) The subdivider knows of no defects from any cause in those improvements; and

(d) These improvements are free and clear of any encumbrance or lien.

(3) If the City Engineer has certified that the contracted improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed in division (I)(2) above, the city shall accept the dedication of those improvements. The city may, at its discretion, accept the dedication of any portion of the required improvements; provided that, all statements and agreements specified in division (I)(2) above have been received for that portion of the improvements.

(J) *Reduction of guarantees.* In those cases where improvement guarantees have been made under division (C) above, the amount of the guarantee may be reduced upon acceptance, in compliance with division (H) above of the dedication of a portion of the required improvements.

(K) *Release of guarantee.* Upon acceptance, in accordance with division (H) above of the dedication of the final portion of improvements, the city shall authorize the release of the remaining portion of the improvement guarantee.

(2002 Code, § 74-190) (Ord. 93-12, passed 9-28-1993)

§ 151.080 OPERATION AND MAINTENANCE.

It is the intention of the city to provide no services other than planning and zoning administration

to its area of planning and zoning jurisdiction beyond the corporate boundaries of the city. Therefore, it will be the obligation of the subdivider to present to the Planning Commission and the Council a precise approach for the provision of these services. This approach may include the formation of districts, homeowners' organizations or other methods to operate and provide for long-term maintenance and service. This approach shall be made binding on the subdivider in a form, agreement or contract in a manner which is accepted by the City Attorney.
(2002 Code, § 74-191) (Ord. 93-12, passed 9-28-1993)

VARIANCES

§ 151.095 GRANTING VARIANCES; HARDSHIP.

Where the Council, upon the recommendation of the Planning Commission, finds that extraordinary non-self-inflicted hardships may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this chapter.
(2002 Code, § 74-221) (Ord. 93-12, passed 9-28-1993)

§ 151.096 GRANTING VARIANCES; CONDITIONS.

The Planning Commission may recommend and the Council may grant variances from the provisions of this chapter after determining that:

(A) There are unique circumstances or conditions affecting the property;

(B) The variance is necessary for the reasonable and acceptable development of the property in question; and

(C) The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.
(2002 Code, § 74-222) (Ord. 93-12, passed 9-28-1993)

§ 151.097 RECORDING PLAT.

In no case shall the requirement of filing and recording a plat for subdivision be waived.
(2002 Code, § 74-223) (Ord. 93-12, passed 9-28-1993)

§ 151.098 PLANNED UNIT/CLUSTER DEVELOPMENTS.

The Planning Commission and the Council may also grant reasonable variances to this chapter if the subdivider concurrently submits an application for and obtains approval of a planned unit

development or cluster development. The subdivider shall indicate where the plans vary from the requirements of this chapter and shall present evidence to support such requests.
(2002 Code, § 74-224) (Ord. 93-12, passed 9-28-1993)

SUBDIVISION ANNEXATIONS

§ 151.110 SUBDIVISION ANNEXATION GENERALLY.

(A) *Subdivision annexation of adjoining or contiguous properties.* All subdivisions or additions laid out adjoining or contiguous to the corporate limits may be included within and become a part of the city for all purposes whatsoever, upon approval of and acceptance by resolution of the Council.

(B) *Subdivision annexation; petition for annexation.* Any subdivision in which there are lands dedicated to the city or any subdivision serviced by public utilities shall be annexed to the city. Before approval for the final plat is given, the Council shall receive a petition for annexation from the owners of the subdivided properties.

(C) *Subdivision annexation; adoption of plan by resolution.*

(1) The Council, desiring to annex land under the authority of this section, shall first adopt both a resolution stating that the city is considering the annexation of the land and a plan for extending city services to the land. The resolution shall state:

(a) The time, date and location of the public hearing required in division (C)(3) below;

(b) A description of the boundaries of the land proposed for annexation; and

(c) The plan of the city for extension of city services to the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

(2) The plan adopted by the Council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the city for extending city services to the land proposed for annexation. The plan shall:

(a) State the estimated cost impact of providing the services to such land;

(b) State the method by which the city plans to finance the extension of services to the land and how any services already provided to the land will be maintained;

(c) Include a timetable for extending service to the land proposed for annexation; and

(d) Include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the city, the proposed boundaries of the city after annexation and the general land use pattern in the land proposed for annexation.

(3) A public hearing on the proposed annexation shall be held within 60 days following the adoption of the resolution to allow the Council to receive testimony from interested persons. The Council may recess the hearing, for good cause, to time and date specified at the hearing.

(4) A copy of the resolution providing for the public hearing shall be published in the official newspaper in the city at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first class mail, following its passage, to the school board of any school district in the land proposed for annexation.

(2002 Code, § 74-261) (Ord. 93-12, passed 9-28-1993)

DEDICATION OF LAND FOR PARKS, RECREATIONAL FACILITIES OR OPEN SPACES

§ 151.125 DEDICATION.

(A) Every subdivider who subdivides land shall dedicate a portion of such land, or pay a fee, as set forth in this subchapter for the purpose of providing a park, recreational facilities and open spaces to serve future residents of such subdivision.

(B) Regardless of when said land was dedicated to the city under this subchapter, the Council, only through a super majority vote of six ayes, may at any time:

(1) Trade park fee land acquired pursuant to this subchapter for an equal area of land to be used for a public park within the same subdivision or within 1,000 feet of the subdivision; or

(2) Sell park fee land at current market value and use the sale funds within 24 months to purchase an equal amount of land within the same subdivision or within 1,000 feet of the subdivision or to purchase playground equipment or other public recreation enhancements in a public park within the same subdivision or within 1,000 feet of the same subdivision.

(2002 Code, § 74-291) (Ord. 93-12, passed 9-28-1993; Ord. 2013-8, passed 2-19-2013)

§ 151.126 APPLICATION.

Provisions of this subchapter shall apply to all subdivisions, except subdivisions for which the final subdivision plat has been accepted by the city on or before 1-9-1979.

(2002 Code, § 74-292) (Ord. 93-12, passed 9-28-1993)

§ 151.127 FEES.

(A) The amount of land dedicated by a subdivider pursuant to this subchapter shall be 5% of the land area comprising the total land area in the proposed subdivision as reflected in the final subdivision

plat. If a subdivider so desires, the subdivider may elect to pay a fee in lieu of land dedication; provided, however, the city may reject the subdivider's election and require land dedication. Where a subdivider is required to pay a fee in lieu of land dedication, the amount of such fee shall be based upon the fair market value of the amount of land comprising the total land area as indicated in the final subdivision plat. The amount of such fee shall be 8% of the fair market value of the total land area comprising the proposed subdivision as indicated in the final subdivision plat, except that the park fee for new non-annexed, non-contiguous subdivisions, which are outside of the city limits, in the extraterritorial jurisdiction, and not fully served by city services, shall be 1%.

(B) Fair market value shall be determined as of the time of filing the final plat in accordance with the following:

(1) The fair market value as determined by the Council based upon fair market value appraisals considering all of the uses and purposes for which it might reasonably be used;

(2) If the subdivider objects to the amount of valuation the subdivider may, at its expense, obtain an appraisal of the land based on the highest and the best use of the land by a qualified real estate appraiser approved by the city, which appraisal may be accepted by the Council if found reasonable; or

(3) The city and the subdivider may agree as to the fair market value.
(2002 Code, § 74-293) (Ord. 2008-22, passed 11-4-2008; Ord. 2010-9, passed 5-4-2010)

§ 151.128 PROCEDURES.

The procedure for determining whether the subdivider is to dedicate land or pay a fee shall be as follows.

(A) At all times, the Council shall have the power to require land dedication or a fee in lieu of land dedication, regardless of the subdivider's election to dedicate land or pay a fee. The Council shall not approve any preliminary plat or final plat which has not complied with this subchapter.

(B) At the time of the filing of the preliminary subdivision plat for approval, the subdivider of the property shall, as a part of such filing, indicate whether the subdivider desires to dedicate land for park and recreational purposes, or whether the subdivider desires to pay a fee in lieu thereof or provide private recreational areas if accepted by the Council. If the subdivider desires to dedicate land for this purpose, the subdivider shall designate the area thereof on the preliminary plat as submitted and all dedicated land shall be contiguous.

(C) At the time the preliminary plat is submitted for approval, the Council shall determine, as a part of such approval, whether to accept a dedication of land within the subdivision or a payment of fee in lieu thereof. The minimum size of a dedication of land for park purposes shall be five-tenths acre.

(D) Where a dedication of land is required, it shall be accomplished in accordance with the provisions of the land subdivision ordinance. Further, the subdivider shall convey the dedicated land to the city by deed, and the deed shall be delivered to the city upon approval of the final plat. The final plat will contain all dedicated park land and the name of the park.

(E) Where fees are required, such fees shall be paid and deposited with the city prior to the approval of the final plat, or in the alternative, the subdivider shall pay the fees within 12 months from the date of the approval of the final plat; provided that, the subdivider furnishes a written agreement to pay the fees and a personal note or total amount of fees, subject to the approval of the city, to the city prior to the approval of the final plat. The city shall not issue any building permits for construction on more than one-third of the lots in any subdivision until the fees are paid and shall not issue any building permits for construction on any lots after the expiration of the 12-month period until the fees are paid.

(F) At the time the final plat is approved, and land is dedicated, the Council shall designate the time when the development of the park and recreational facility shall be commenced.
(2002 Code, § 74-294) (Ord. 93-12, passed 9-28-1993)

§ 151.129 USE OF PROCEEDS.

With the exception provided in § 151.125 of this chapter, land and fees received under this subchapter shall be used for the purpose of providing parks, recreational facilities and open spaces to serve the approximate area of the subdivision for which received and location of the land and amount of fees shall bear a reasonable relationship to the use of the parks, recreational facilities and open spaces by the future inhabitants of the subdivision.

(2002 Code, § 74-295) (Ord. 2013-8, passed 2-19-2013)

§ 151.130 PARK FEE; EXCEPTIONS.

The following subdivisions are excepted from the requirements of this subchapter:

(A) All lot split subdivisions as provided in Art. VII, § 705, of the 1979 subdivision regulations ordinance of the city, Ord. 947;

(B) All light and heavy industrial park subdivisions. An industrial park subdivision shall require all the real estate within the subdivision to be zoned industrial (I-1, I-2) pursuant to the zoning ordinances of the city; and

(C) All business and commercial districts. A business and commercial district subdivision shall require all the real estate within the subdivision to be zoned business and commercial (B-1, B-2, B-3) pursuant to the zoning ordinances of the city.

(D) All agricultural districts. An agricultural subdivision shall require all the real estate within the subdivision to be zoned agricultural (A-1, A-2) pursuant to the zoning ordinances of the city.

(2002 Code, § 74-296)

§ 151.131 CONVEYANCES PRIOR TO 8-28-1979; EXEMPT FROM SUBDIVISION REQUIREMENTS.

All conveyances of real estate, either within the corporate limits of the city or outside the corporate limits of the city, but within the zoning jurisdiction of the city, where such conveyances have created parcels which have not received subdivision approval, and which conveyances have been recorded in the office of the Register of Deeds of the appropriate county prior to 8-28-1979, are exempted from subdivision approval requirements and are validated.

(2002 Code, § 74-297)

§ 151.999 PENALTY.

(A) Any engineer, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section, **and in Sec. 10.99.**

(B) Any person who fails to comply with the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor. Each day a violation exists or continues shall constitute a separate offense.

(C) Nothing contained in this section shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(2002 Code, § 74-5) (Ord. 93-12, passed 9-28-1993)

CHAPTER 152: ZONING

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GENERAL PROVISIONS

§ 152.001 JURISDICTION.

The provisions of this chapter shall apply within the area of planning jurisdiction as defined on the official zoning map of the city as it may be amended by subsequent annexation.
(2002 Code, § 90-1) (Ord. 93-11, passed 9-28-1993)

§ 152.002 PURPOSES AND OBJECTIVES.

(A) This chapter is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare.

(B) More specifically, this chapter is adopted in order to achieve the following objectives:

(1) To provide a precise plan for the physical development of the city in such a manner as to achieve progressively the general arrangement of land uses depicted in the Comprehensive Plan;

(2) To foster a harmonious, convenient, workable relationship among local uses and a wholesome, serviceable and attractive living environment;

(3) To promote the stability of existing land uses which conform with objectives and policies of the Comprehensive Plan and to protect them from inharmonious influences and harmful intrusions;

(4) To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the city;

(5) To promote the beneficial development of those areas which exhibit conflicting patterns of use;

(6) To prevent excessive population densities and overcrowding of the land with structures;

(7) To promote a safe, effective traffic circulation system;

(8) To foster the provision of adequate off-street parking and truck loading facilities;

(9) To facilitate the appropriate location of public facilities and institutions;

(10) To protect and promote appropriately located agricultural, commercial and industrial pursuits in order to preserve and strengthen its economic base;

(11) To protect and enhance real property values;

(12) To conserve the city's natural assets and to capitalize on the opportunities offered by its terrain, soils, vegetation and waterways; and

(13) To coordinate policies and regulations relating to the use of land with such policies and regulations of incorporated municipalities of the county in order to:

(a) Facilitate transition from county to municipal jurisdiction that land which is first developed in an unincorporated area and is subsequently annexed to a municipality;

(b) Foster the protection of farming operations in areas of planned urban expansion; and

(c) Ensure unimpeded development of such new urban expansion that is logical, desirable and in accordance with objectives and policies of the Comprehensive Plan.

(2002 Code, § 90-2) (Ord. 93-11, passed 9-28-1993)

§ 152.003 GENERAL REGULATIONS.

The zoning regulations set forth by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as otherwise provided.

(2002 Code, § 90-3) (Ord. 93-11, passed 9-28-1993)

§ 152.004 ZONING AFFECTS EVERY BUILDING AND USE.

No building, structure or land shall be used or occupied, and no building or structure shall be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the zoning regulations specified in this chapter for the district in which it is located.

(2002 Code, § 90-4) (Ord. 93-11, passed 9-28-1993) Penalty, see § 152.999

§ 152.005 PERFORMANCE STANDARDS.

No building or other structure shall be erected or altered to:

(A) Exceed the height or bulk;

(B) Accommodate or house a greater number of families;

(C) Occupy a greater percentage of lot area;

(D) Have narrower or smaller rear yards, front yards, side yards or other open spaces; or

(E) Than required in or in any other manner contrary to the provisions of this chapter.

(2002 Code, § 90-5) (Ord. 93-11, passed 9-28-1993) Penalty, see § 152.999

§ 152.006 OPEN SPACE OR OFF-STREET PARKING OR LOADING SPACES.

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, (2002 Code, § 90-6) (Ord. 93-11, passed 9-28-1993) Penalty, see § 152.999

§ 152.007 YARD AND LOT REDUCTION PROHIBITED.

No yard or lot existing at the time of passage of the ordinance from which this chapter derives shall be reduced in dimension or area below the minimum requirements set forth in this chapter. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(2002 Code, § 90-7) (Ord. 93-11, passed 9-28-1993) Penalty, see § 152.999

§ 152.008 PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

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

(2002 Code, § 90-8) (Ord. 93-11, passed 9-28-1993)

§ 152.009 CONSTRUCTION.

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this chapter.

(A) *Structure.* The term “structure” shall include the term “building”.

(B) *Lot.* The term “lot” includes the term “plot” or “parcel”.

(2002 Code, § 90-9) (Ord. 93-11, passed 9-28-1993)

§ 152.010 DEFINITIONS.

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

ABUTTING. Adjacent or contiguous and shall include property separated by an alley.

ACCESSORY STRUCTURE. Any unattached structure which is incidental to the primary or principal structure or premises.

ACCESSORY USE. One which is incidental to the main use of the premises.

ADULT MEDIA OUTLET. A bookstore, video store or newsstand that derives more than 10% of the gross revenue from distribution and rental of explicit sexual material.

AGRICULTURE. The planting, cultivating, harvesting and storage of grains, hay or plants, commonly grown in the vicinity. The raising and feeding of livestock and poultry shall be considered an **AGRICULTURAL VENTURE** if the area on which the livestock or poultry is kept is ten acres or more in the area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.

AIRPORT. Any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways and tiedown areas.

ALLEY. A public or private thoroughfare which affords only a secondary means of access to abutting property.

ALTERATION. As applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height or the moving from one location or position to another, shall be considered an **ALTERATION**.

ANIMAL HOSPITAL OR CLINIC. An establishment where animals are admitted principally for examination, treatment, board or care by a doctor of veterinary medicine. (This does not include open kennels or runs.)

APARTMENT. A room or suite of rooms within a multiple dwelling arranged, intended or designed for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

APARTMENT HOUSE. The same as **DWELLING, MULTIPLE**.

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

BASEMENT.

(1) The portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

(2) A **BASEMENT** shall be counted as a story if less than half of its depth is below grade.

BED AND BREAKFAST GUEST HOME. A dwelling in which no more than four rooms or suites of rooms are made available for use as transient lodging. The remainder of the dwelling is used solely as a principal residence of the host family, who shall be full-time, year-round occupants of the dwelling.

BILLBOARD. An outdoor advertisement sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

BLOCK. A parcel of land entirely surrounded by public highways, streets, railroads or unplatted land.

BLOCK FRONT. All of the property on one side of a street between two intersecting streets.

BOARD OF ADJUSTMENT. The legally appointed city board empowered to hear and decide appeals from and to provide interpretations of the terms of this chapter and the official map as defined within this chapter and in accordance with the laws of the state.

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

BUILDING. Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property. When a structure is separated by a division wall without openings, each portion shall be deemed a separate **BUILDING**.

BUILDING, HEIGHT OF. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof, to the deck line of a mansard roof and to the average height between the plate and ridge of a gable, hip or gambrel roof.

BUILDING LINE. A line parallel or nearly parallel to either the street line or the lot line not abutting the street and at a specified distance from the street or lot line which marks the minimum distance from either line that a building may be erected. In the case of a cul-de-sac, the **BUILDING LINE** shall be measured around the curvature of the street line or to the foundation wall.

BUILDING, PRINCIPAL. A non-accessory building in which is conducted a principal use of the zoning lot on which it is located.

BUSINESS or COMMERCE. The engaging in the purchase, sale, barter or exchange of goods, wares or merchandise; and the maintenance or operating of offices or recreational or amusement enterprises.

CAMPGROUND. Any premises where two or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

CAMPING UNIT. Any vehicle, tent, trailer or other movable shelter used for camping purposes.

CARPORT. A structure or part of a structure, other than a garage, used to shelter motor vehicles.

CELLAR. The portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

CHILD CARE CENTER. A facility which is or should be licensed by the State Department of Social Services under the authority of Neb. RS 71-1908 through 71-1918, as provided and defined under Title 474 of the State Administrative Code, Ch. 6, § 002.

CHILD CARE HOME. A private home providing care (for children) for compensation which is or should be licensed by the State Department of Social Services.

CLINIC - MEDICAL, DENTAL OR HEALTH. Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings, including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists and podiatrists, and in which no patients are lodged overnight.

CLUB. A building or facility owned or operated by persons associated for social, educational or recreational purpose, not operated primarily for profit nor to render a service which is customarily carried on as a business, and which is generally restricted to members and their guests using the facility for the purpose for which they have associated; this shall not include a church building, or the occasional accessory use of a private residence as a meeting place.

CLUSTER HOUSING DEVELOPMENT. A housing development comprising a group of tracts of real estate the areas of which are not required to comply individually within minimum lot area requirements, and which, for the purpose of compliance with minimum area requirements, may include areas of common areas. Residential structures in such a development may have common walls, but the term does not include multi-story apartment type developments. These shall be limited to PUDs.

COMMON OPEN SPACE. An area of land or water or combination of land and water planned for passive or active recreation, but does not include an area utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts and the like may be included as **COMMON OPEN SPACES**.

COMMON SEWER SYSTEM. A sanitary sewer system in public ownership which provides for the collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the State Department of Environmental Control for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment

facilities.

COMMON WATER SYSTEM. A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis and which is in public ownership.

COMPREHENSIVE PLAN. The plan or series of plans for the future development of the city recommended by the Planning Commission and adopted by the Council.

CONDITIONAL USE. A use which is allowed in a zone when specified conditions have been complied with as identified for each district as a **CONDITIONAL USE**. A **CONDITIONAL USE** permit is reviewed and issued by the Zoning Administrator.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items and other commonly associated goods.

COUNTRY CLUB. Includes golf courses, par-3 golf courses, swimming pools, tennis clubs and neighborhood clubhouses. Sleeping facilities, other than quarters for one caretaker or manager and his or her family, shall be prohibited. Clubs operated solely as restaurants, cocktail lounges, card rooms, taverns, bowling alleys, pool and billiard parlors and similar activities normally carried on in a business shall be excluded from the definition of a **COUNTRY CLUB**.

COURT. An open, unoccupied space, bounded on two or more sides of the walls of the building. An **INNER COURT** is a court entirely within the exterior walls of a building or walls and side lot line, all other **COURTS** are **OUTER COURTS**.

CUL-DE-SAC. A street having one end open to traffic and being terminated by a vehicular turnaround.

DISTRICT. A section of the zoning area for which regulations governing the use of land, the height of buildings, the size of yards and the intensity of use are uniform.

DOMESTIC SHELTER. A temporary shelter for individuals affected by domestic violence. Such use shall be operated by a public or non-profit entity and may provide temporary boarding, lodging, counseling and support services.

DRIVE-IN FACILITY. Any establishment such as a facility, financial institution or product vending enterprise where the patron does not enter and remain within a building during the transaction of his or her business. Food vending establishments where the food is not normally consumed within a building, or where numerous facilities are provided for eating outside a building, shall be included in this definition.

DRIVEWAY. Any route used for motor vehicles to access public or private property from a street or that connects a house, garage or other building with the street.

DWELLING. Any building or portion of a building which is designed for and used exclusively for residential purposes.

DWELLING, MULTIPLE. A residential building designed for and independently occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A building designed for or occupied by one family.

DWELLING, TWO-FAMILY. A building designed for and independently occupied by two families exclusively.

DWELLING UNIT. A room or group of rooms within a dwelling and forming a single habitable unit with facilities for living, sleeping and cooking.

EARTH STATION OR DISH ANTENNA. A combination of antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources, or a low-noise amplifier (LNA) which is situated at the focal point of the receiving components and whose purpose is to carry the signals into the interior of the building.

EASEMENT. A grant by the property owner to the public, a corporation or persons of the use of a tract of land for a specific purpose.

EFFICIENCY UNIT. A dwelling unit having only one room exclusive of bathroom, water closet compartment, kitchen, laundry, pantry, foyer, communicating corridor, closets or any dining alcove. An **EFFICIENCY UNIT** shall be permitted only in a multi-family dwelling.

ENCLOSED COMMERCIAL RECREATIONAL FACILITIES. Facilities which are enclosed in a building and used for physical fitness and athletic activities, including, but not limited to, golf, racquetball, tennis and other court games, fitness centers, bowling, skating or swimming.

EXCEPTION. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning districts as **EXCEPTIONS** if specific provision for such **EXCEPTIONS** is made in this chapter.

FAMILY.

- (1) One, two, three or four persons occupying a dwelling unit.
- (2) Five or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional **FAMILY**.
- (3) It shall be presumptive evidence that five or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional **FAMILY**.
- (4) In determining whether individuals are living together as the functional equivalent of a traditional **FAMILY**, the following criteria must be present:

Wayne - Land Usage

(a) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;

(b) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional **FAMILY**;

(c) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;

(d) The group is permanent and stable. Evidence of such permanency and stability may include:

1. The presence of minor dependent children regularly residing in the household who are enrolled in local schools;

2. Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;

3. Members of the household are employed in the area;

4. The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;

5. Common ownership of furniture and appliances among the members of the household; and

6. The group is not transient or temporary in nature.

(e) Any other factor reasonably related to whether or not the group is the functional equivalent of a **FAMILY**.

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 of the usual farm poultry and farm animals. The term includes the operating of such area for one or more of such uses with the necessary accessory uses for treating or storing the produce, however, the operation of any such accessory uses shall be secondary to that of the normal farming activities and such accessory uses must not include the feeding of garbage or offal to swine or other animals.

FEEDLOT. The confined feeding of food, fur or pleasure animals in buildings, lots, pens, pools or ponds which normally are not used for the raising of crops or for grazing animals. The term shall include the confined feeding of animal units, with one animal unit being equivalent to one head of feeder/fat beef, or dairy cattle; one horse or pony; one llama; two head of swine; two dogs; three ostriches; three emus; five head of sheep and/or goats; 25 turkeys, chickens, ducks or geese; or an equivalent number of other animals as determined by the Board of Zoning Adjustment. **FEEDLOTS** shall also be classified according to the registered capacity, as registered with the Zoning

Administrator. The registered capacity of such **FEEDLOTS** shall be as follows:

- (1) First-class feedlot: 1,500 or more animal units;
- (2) Second-class feedlot: 750 to 1,499 animal units;
- (3) Third-class feedlot: 321 to 749 animal units; and
- (4) Fourth-class feedlot: Any operation consisting of 160 acres or less shall be permitted two animal units per acre.

FENCE, SOLID. A fence of wood, metal or masonry construction which is designed to obstruct the public view. Such **FENCE** may utilize materials having openings or perforations for decorative or functional purposes, but such openings or perforations shall not exceed 15% of the total external face area or be so arranged as to permit an unobstructed public view at any point.

FILLING STATION. The same as **SERVICE STATION**.

FLOODPLAIN. Those lands which are subject to a 1% or greater chance of flooding in any given year.

FLOODWAY COMMISSION. A floodway whose limits have been designated and established by order of the State Natural Resources Commission.

FLOODWAY, SELECTED. A floodway within the limits of a commission floodway which is recognized by the State Natural Resources Commission as being subjected to a high degree of flood hazard.

FLOOR AREA. The total number of square feet of floor space within the outside of the exterior walls of a building, not including cellars, basements and garages.

FRONTAGE. All the property on one side of a street between two intersecting streets, crossing or terminating, measured along the line of the street, or if the street is deadended, then all property abutting on one side between an intersecting street and the deadend of the street.

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

GARAGE, PUBLIC. A building or portion of a building, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.

GARAGE SALE. The occasional or intermittent sale of personal, household and/or other items typically found in a residential neighborhood. The property owner is responsible for the temporary signage of said sale. Any person, who holds or engages in the sale of secondhand merchandise on a continuous or regular basis, will be considered a second hand dealer or antique dealer.

GARDEN CENTER. A building or premises used primarily for the retail sale of items useful in

the culture, display or decoration of lawns, gardens or indoor plants, including books, appliances and tools, but not including power tools or tractors.

GOVERNING BODY. The body having jurisdiction in the zoning area.

GRADE.

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

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

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

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

GREENHOUSE. A building or premises used for growing plants, preparation or floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes; provided, no retail sales shall be conducted on such premises.

HOME OCCUPATION. A business, occupation or profession carried on within a residential dwelling or an accessory building by the resident, which is incidental and secondary to the residential occupancy and does not change the residential character of the building. The regulations pertaining to **HOME OCCUPATIONS** are included in § 152.144 of this chapter.

HOTEL. A building, a portion of a building, or a group of buildings used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor lodge, motor court, tourist cabin, tourist court or other similar designation.

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

JUNK OR SALVAGE YARD. Any area where waste, discarded or salvaged, is bought, sold, exchanged, bailed or packed, disassembled or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards of storage of salvaged house-wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

KENNEL, BOARDING. Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.

KENNEL, BREEDER. Any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee.

LAUNDRY. An establishment where commercial laundry and dry cleaning work is undertaken.

LAUNDRY, SELF-SERVICE. An establishment equipped for the primary use of providing individual coin-operated washing, drying and/or dry cleaning machines.

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

LOT MEASUREMENTS.

(1) **LOT DEPTH.** The mean horizontal distance between the front and rear lot lines.

(2) **LOT MINIMUM AREA.** The minimum square footage of land area occupied, or to be occupied by a single principal building and accessory buildings as applicable to designated zoning districts.

(3) **LOT WIDTH.** The width of a lot measured at the building line and at the right angles to its depth.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT, INTERIOR. A lot other than a corner lot which has frontage on one street only.

LOT, THROUGH. A lot other than a corner lot fronting on more than one street.

LOT, PLATTED. A lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds of the county.

LOT OF RECORD. A lot which is both part of a subdivision recorded in the office of the Register of Deeds for the county, and having been owned separately and individually from adjoining lots or tracts of land prior to 8-28-1979.

MANUFACTURE. Any method of processing, developing, fabricating, assembling, either raw materials, semi-finished materials or parts into a semi-finished product.

MANUFACTURED HOME. A factory-built structure which is to be used as a place for human habitation, which is not constructed 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. parts 3280 et seq., promulgated by the United States Department of Housing and Urban Development, and a modular housing unit as defined in Neb. RS 71-1557 bearing the seal of the State Department of Health and Human Services regulations and licensure.

MEDIA. Anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. **MEDIA** includes, but shall not necessarily be limited to, books, newspapers, magazines, movies, videos, sound recordings, CD-roms, digital video discs, other magnetic media and undeveloped pictures.

MEDICAL, DENTAL OR HEALTH CLINIC. The same as **CLINIC**.

MINIWAREHOUSE. A storage facility designed to serve families and small businesses on a fee basis.

MOBILE HOME. Any single-family permanent living quarters, designed and built to be towed on its own chassis. Each **MOBILE HOME** shall be at least eight feet in width and 32 feet in length.

MOBILE HOME PARK. A tract of land not less than two acres in size which has been developed, subdivided, planned and improved for the placement of mobile homes for non-transient use, but shall not include mobile home sales lots for display, inspection, sales or storage.

MODULAR HOME. A dwelling structure designed to be transported after fabrication and located as a permanent addition to and becoming part of the real property. Such a structure must meet city building requirements and be set on a permanent foundation and connected to public utilities.

NON-CONFORMING USE, BUILDING, LAND OR YARD. A use, building, land or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is located.

NON-FARM BUILDINGS. All buildings, except those buildings utilized for agricultural purposes on a farmstead of 20 acres or more which produces \$1,000 or more of farm products each year.

NURSING HOME or **CONVALESCENT HOME.** An institution or agency licensed by the state for the reception, board, care or treatment of three or more unrelated mental illnesses, alcoholism or narcotics addictions.

OCCUPANCY. The actual possession or use of a building, structure, lot or tract of land.

OUTDOOR ADVERTISING BUSINESS. The provision of outdoor displays or display space on a lease or rental basis only, and in conformity with the outdoor advertising standards.

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

PARKING SPACE. An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress.

PARKWAYS. Those streets which are similar to an arterial, but with a large median for landscaping and somewhat slower traffic flow.

PEDESTRIAN WAY. A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets or properties.

PLANNED UNIT DEVELOPMENT. A special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in § 152.113 of this chapter.

PORCH, UNENCLOSED. A roofed or unroofed open structure projecting from the front, side or rear wall of a building, and having no enclosed features or glass, wood or other material more than 30 inches above the floor, except wire screening and the necessary columns to support the roof.

PREMISES. A tract of land consisting of one platted lot or irregular tract or more than one platted lot or irregular tract; provided, such lots or tracts are under common ownership and contiguous.

PRESCHOOL. An establishment, other than a public or parochial school, which provides regular day care with specific educational curriculum for unrelated preschool-age children.

PRIVATE RECREATION BUILDING (CONTROLLED IMPACT). Private ownership of a non-commercial building primarily engaged in the provision or sponsorship of sports and recreation for participants or spectators. **CONTROLLED IMPACT PRIVATE RECREATION USES** take place entirely within enclosed buildings and have limited effects related to lighting, hours of use or noise. Typical uses include basketball courts, batting cages, playing fields and archery ranges.

PROFESSIONAL OFFICE. Any building or part of a building used by one or more persons engaged in the practice of law, accounting, architecture, engineering or other occupation customarily considered as a profession.

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

RECREATIONAL VEHICLE. A vehicular unit not exceeding 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as temporary living quarters for recreational camping or travel use, having either its own motor power or designed to be mounted on or drawn by an automotive vehicle. **RECREATIONAL VEHICLES** include motor homes, truck campers, travel trailers, camping trailers and fifth wheels. This definition shall include a boat mounted on a trailer, together not exceeding 40 feet in body length, eight feet in width or 12 feet in overall height.

RECYCLING CENTER. A facility which accepts salvage material as licensed by the state in which no hazardous material as defined by state and federal law is accepted, there is no wrecking or dismantling of salvage material, and no salvage material is held outside a building.

RECYCLING COLLECTION POINT. A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

SANITARY LANDFILL. A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or their parts, or other waste, and which is in conformance with the requirements of the State Department of Health and Human Services and the Department of Environmental Quality.

SCHOOL. A public or parochial or private facility which is under direction and control of the state, including elementary and secondary education; a college, university or incorporated academy providing general academic instruction equivalent of the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses and other student housing which are constructed on campus shall be considered accessory buildings.

SECONDHAND DEALER. Any person who regularly engages in the business of buying, selling or dealing in secondhand merchandise.

SERVICE STATION. Any building or premises used for the dispensing or sale of automobile fuels, lubricating oils or grease, tires, batteries or minor automobile accessories. Services offered may include the installation of tires, batteries, greasing or washing of individual automobiles. **AUTOMOBILE SERVICE STATIONS** shall not include premises offering major automobile repairs, automobile wrecking or automobile sales. In connection with automobile service stations, fuels offered for sale shall be stored only in underground tanks located wholly within the lot lines.

SETBACK LINE. A line, as shown on a recorded plat or otherwise established by the Council, beyond which no foundation of a building or structure may project.

SETBACK LINE, FRONT. The setback line at the front of a lot.

SETBACK LINE, REAR. The setback line at the rear of the lot.

SETBACK LINE, SIDE. The setback line at the side of the lot.

SEX SHOP. A retail outlet offering adult media items and including lingerie, sexually oriented toys or novelty items.

SEXUALLY ORIENTED TOYS OR NOVELTIES. Instruments, devices or other paraphernalia designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

SIGN. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. The area of a ***SIGN*** face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination of such elements that will encompass the extreme limits of the writing, representation emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

STORY. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above; except that, the topmost ***STORY*** shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If finished floor level directly above a basement, cellar or unused underfloor space is more than six feet above grade for more than 50% of the total perimeter or is more than 12 feet above grade at any point, such basement, cellar or unused underfloor space shall be considered as a ***STORY***.

STREET. A public or private thoroughfare, including avenues, which affords principal means of access to abutting property.

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

STRUCTURAL ALTERATION. Any change in the structural members of a building, such as bearing walls, columns, beams, roof or girders, or any complete rebuilding of the roof or the exterior walls.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

TAVERN. An establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises.

TERRACE. The portion of city owned right-of-way from the street to the property line.

TERRACE PARKING. The use of any portion of the right-of-way of any street for the parking of motor vehicles. Such parked vehicles shall not extend over any sidewalk and shall not present a traffic hazard.

TOWNHOUSE. One of a group or row of not less than two or more than 12 attached single-family dwellings designed and built as a single structure facing upon a street in which the individual **TOWNHOUSE** may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of **TOWNHOUSES** shall be considered as one building occupying a single lot.

VARIANCE. Relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out in the powers and duties of the Board of Adjustment.

VEHICLE TOWING SERVICE. Any person or business offering the services of a vehicle wrecker or towing service to the general public, whereby motor vehicles are towed or otherwise removed from the place where they are located, by use of a wrecker so designed for that purpose, or by a truck, or other equipment so adapted to that purpose, or in the business of storing wrecked vehicles.

WRECKED VEHICLE. Any vehicle which has damaged or missing body panels and/or broken or missing glass as a result of an automobile accident, vandalism or neglected to the extent it cannot be safely or legally operated on a city street.

YARD. An open space on the same lot with a building unobstructed from the ground upward and measured as the minimum horizontal distance between the lot line and the foundation of the building.

(1) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement, which shall not exceed the average of the yards provided on adjacent lots.

(2) In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage unless otherwise provided in the district regulations.

YARD, FRONT. A yard extending across the front of a lot between side lot lines. There shall be a required front yard on each street side of a corner lot. Through lots shall require frontages on both streets.

YARD, REAR. A yard extending between the side yard line and the rear of the main building and rear yard line.

YARD, SIDE. A yard extending between the front yard line and rear yard line.

YARD, SPECIAL.

(1) A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” nor the term “rear yard” clearly applies.

(2) In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lots, with due regard to the orientation and location of structures and buildable areas.

ZONING ADMINISTRATOR. The person authorized and empowered by the Council having jurisdiction to administer the requirements of this chapter.

ZONING DISTRICT. An area delineated on a zoning map for which uniform use regulations are specified.

ZONING MAP. A map officially adopted by the Council as part of this chapter showing the boundaries of zoning districts, a copy of which, certified to have been adopted as provided by law, is filed in the office of the City Clerk as an official record of the city.

ZONING REGULATIONS. The requirements stipulated in the regulations included in this chapter.

(2002 Code, § 90-10) (Ord. 93-11, passed 9-28-1993; Ord. 96-1, passed 2-27-1996; Ord. 97-1, passed 2-11-1997; Ord. 2001-15, passed 10-9-2001; Ord. 2001-19, passed 11-27-2001; Ord. 2002-17, passed 12-17-2002; Ord. 2004-15, passed 12-14-2004; Ord. 2005-6, passed 4-12-2005; Ord. 2006-10, passed 9-12-2006; Ord. 2007-26, passed 1-15-2008; Ord. 2010-10, passed 6-15-2010; Ord. 2010-26, passed 10-5-2010; Ord. 2012-22, passed 6-19-2012)

§ 152.011 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a

written complaint. Such complaint, stating fully the causes and their basis, shall be filed with the Zoning Administrator, who shall record properly such complaint, immediately investigate and take action as provided by this chapter.

(2002 Code, § 90-11) (Ord. 93-11, passed 9-28-1993)

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

§ 152.026 DISTRICTS CREATED.

For purposes of this chapter, the city and all area within two miles of the city limits is divided into zoning districts to be known as follows:

- (A) A-1 Agricultural District;
- (B) A-2 Agricultural Residential District;
- (C) R-1 Residential District;
- (D) R-2 Residential District;
- (E) R-3 Residential District;
- (F) R-4 Residential District;
- (G) R-5 Residential District;
- (H) B-1 Highway Business District;
- (I) B-2 Central Business District;
- (J) B-3 Neighborhood Commercial District;
- (K) I-1 Light Industrial and Manufacturing District; and
- (L) I-2 Heavy Industrial and Manufacturing District.

(2002 Code, § 90-51) (Ord. 93-11, passed 9-28-1993)

§ 152.026 ZONING DISTRICT MAP.

(A) The boundaries of the zoning districts are shown on the zoning district map which is made part of this chapter. The map and all information shown on the map shall have the same force and effect as if fully set forth or described in this chapter.

(B) The official zoning district map shall be identified by the signature of the Mayor and attested by the City Clerk under the following statement:

“This is to certify that this is the official Zoning District Map referred to in § 90-52 of Ordinance No. 93-11 of the City of Wayne, Nebraska, passed this 28th day of September, 1993.”
(2002 Code, § 90-52) (Ord. 93-11, passed 9-28-1993)

§ 152.027 ZONING MAP CHANGES.

(A) (1) If, in accordance with the provisions of this chapter, changes are made in the district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Council, with an entry on the official zoning map as follows: “On (date), by official action of the Council, the following change was made in the official zoning map: (brief description of nature of change)”, which entry shall be signed by the Mayor and attested by the City Clerk.

(2) No amendment to this chapter which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on the map. No changes of any nature shall be made in the official zoning map or matter shown on the map except in conformity with the procedures set forth in this chapter.

(B) Regardless of the existence of purported copies of the official zoning map which may be made or published, the official zoning map which shall be located in the office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city.
(2002 Code, § 90-53) (Ord. 93-11, passed 9-28-1993)

§ 152.028 ZONING MAP REPLACEMENT.

(A) If the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment.

(B) Each of the new official zoning maps shall be identified by the signature of the Chairperson or the Mayor attested by the City Clerk and bearing the seal of the city under the following words:

“This is to certify that this official zoning map supersedes and replaces the official zoning map adopted September 28, 1993, as part of Ordinance No. 93-11 of the City of Wayne, Nebraska.”

(C) Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts remaining shall be preserved, together with all available records pertaining to its adoption or amendment.
(2002 Code, § 90-54) (Ord. 93-11, passed 9-28-1993)

§ 152.029 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply.

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(C) Boundaries indicated as approximately following city limits shall be construed as following such city limits.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

(F) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(G) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by divisions (A) through (F) above, the City Board of Zoning Adjustment shall interpret the district boundaries.

(H) Where a district boundary line divides a lot which was in single ownership on 9-28-1993, the City Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(2002 Code, § 90-55) (Ord. 93-11, passed 9-28-1993)

§ 152.030 ANNEXATION RULE.

All territory which may be regulated by this chapter because of annexation to the city shall be considered to be in the A-1 Agricultural District until otherwise classified.

(2002 Code, § 90-56) (Ord. 93-11, passed 9-28-1993)

§ 152.031 ADOPTION AND INCORPORATION BY REFERENCE OF THE ZONING OVERLAY DISTRICT FLOODPLAIN MANAGEMENT REGULATIONS.

To promote the public health, safety and general welfare and to minimize losses of life and property subject to inundation in flood hazard areas, the *Manual of Zoning Overlay District Floodplain Management Regulations*, December 1994, printed in booklet or pamphlet form, is hereby incorporated by reference, in addition to all amendments thereto as though printed in full insofar as the manual does not conflict with the state statutes. One copy of the *Manual of Zoning Overlay District Floodplain Management Regulations* is on file at the office of the City Clerk and shall be available for public inspection at any reasonable time. The provisions of the *Manual of Zoning Overlay District Floodplain Management Regulations* shall be controlling within the corporate limits of the city and all land within the area of the city's jurisdiction as defined in the official flood insurance rate map (FIRM) for the city, and as defined by the state statutes.

(2002 Code, § 90-57) (Ord. 93-11, passed 9-28-1993)

AGRICULTURAL DISTRICTS

§ 152.045 PURPOSES AND OBJECTIVES.

The purposes and objectives of the agricultural districts are to:

(A) Preserve land best suited for agriculture from the encroachment of incompatible uses, prevent the intrusion of urban development into agricultural areas which would make agricultural production uneconomical or impractical, preserve in agricultural use land suited to eventual development in other uses until such time as streets, utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to non-agricultural use;

(B) Provide appropriate locations for certain types of establishments primarily serving agricultural producers; and

(C) Permit the application of regulations to major agricultural areas of the city and surrounding area which will reflect basic physical differences and attractions among such areas.

(2002 Code, § 90-91) (Ord. 93-11, passed 9-28-1993)

§ 152.046 A-1 AGRICULTURAL DISTRICT.

(A) *Intent.* The A-1 District is intended primarily for application to those rural areas of the county where it is necessary and desirable to reserve for exclusive agricultural use appropriately located areas suitable for the raising of crops or livestock because of high quality of soils, scenic characteristics, existing or potential irrigation or exclusive agricultural character of the area.

(2002 Code, § 90-111)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an A-1 District:

Wayne - Land Usage

- (1) Ranch and farm dwellings;
- (2) Agricultural uses, excluding all classes of feedlots;
- (3) Bulk grain storage, both publicly or privately owned or managed;
- (4) Irrigation and flood control projects;
- (5) Child care home;
- (6) Public parks and recreation areas;
- (7) Greenhouses and nurseries; and
- (8) Animal clinics, animal hospitals and veterinarian services.

(2002 Code, § 90-112)

(C) *Permitted accessory uses and structures.* The following are permitted accessory uses and structures in an A-1 District:

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures;
- (2) Home occupations in conformance with § 152.144 of this chapter;
- (3) Residences, including mobile home for farm residence or adjacent to farm residence for relatives of consanguinity and marriage or farm workers; and
- (4) Roadside stands for the sale of agricultural produce.

(2002 Code, § 90-113)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an A-1 District:

- (1) Airports and heliports, including crop dusting strips;
- (2) Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
- (3) Public utility and public service structures, including electric transmission lines and the distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations and reservoirs;
- (4) Public and/or private schools;
- (5) Places of worship such as churches, synagogues and temples;
- (6) Publicly owned open recreational facilities, operated for profit or otherwise, including

golf courses, golf driving ranges, archery ranges, swimming pools, riding academies, parks and community centers, but not including enclosed uses such as a bowling alley;

- (7) Libraries, police and fire stations;
- (8) Sewage treatment plants;
- (9) Gas and oil wells;
- (10) Exploration and extraction of mineral resources;
- (11) Cemeteries, crematories, mausoleums and columbaria;
- (12) Child care centers;
- (13) Radio and television towers and transmitters;
- (14) Campgrounds;
- (15) Wind generating systems;
- (16) Auto wrecking yards, salvage yards and junkyards in conformance with § 152.199 of this chapter;
- (17) Kennels, in conformance with § 152.199 of this chapter, and stables;
- (18) Public and private charitable institutions;
- (19) Sanitary landfill operations and refuse deposit areas;
- (20) Development and/or expansion of first, second, third and fourth class feedlots;
- (21) Auto sales and services, including open air display of new or used vehicles;
- (22) Repair garages, automobile service stations and major body repair; and
- (23) Industrial trades, including mechanical neat and air conditioning; carpenter shops, cabinet shops, plumbing shops and electrical shops; and light fabrication and equipment repair.
(2002 Code, § 90-114)

(E) *Conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall apply as minimum requirements for granting exceptions in the A-1 District.

(1) Airport sites shall be so situated that the Airport Hazard Area defined by the State Department of Aeronautics shall not include any existing obstruction regardless of public or private ownership of the airport.

(2) Any use involving a business, service or process not completely enclosed in a structure, when located on a site abutting on or across a street or an alley from any residential district shall be screened by a solid fence or masonry wall or a compact growth of natural plant materials not less than six feet in height if the Board of Adjustment finds the use to be unsightly.
(2002 Code, § 90-115)

(F) *Prohibited uses and structures.* All uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the A-1 District.
(2002 Code, § 90-116)

(G) *Minimum area requirements.* Minimum area requirements in an A-1 District are as follows:

<i>Minimum Area Regulations</i>	
Distance between residential structures (in feet)	90
Lot area (in acres)	10
Lot width (in feet)	300
Required front yard (in feet)	50
Required rear yard (in feet)	50
Required side yard (in feet)	15

(2002 Code, § 90-117)

(H) *Maximum height.* The maximum height in an A-1 District is 35 feet; however, non-residential structures shall have no height limitations, except in conformance with the airport zoning regulations.
(2002 Code, § 90-118)

(I) *Sign regulations.* All signs in an A-1 District shall be in conformance with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-119)

(J) *Parking regulations.* Parking in an A-1 District shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-120)
(Ord. 93-11, passed 9-28-1993; Ord. 2000-9, passed 5-30-2000; Ord. 2001-15, passed 10-9-2001)

§ 152.047 A-2 AGRICULTURAL RESIDENTIAL DISTRICT.

(A) *Intent.*

(1) The A-2 District is intended to provide for low-density, acreage residential development in selected areas adjacent or in close proximity to the corporate limits of the city.

(2) Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard-surfaced roads.
(2002 Code, § 90-141)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an A-2 District:

- (1) Agricultural uses, excluding first, second and third class feedlots;
- (2) One single-family dwelling;
- (3) Irrigation and flood control projects;
- (4) Child care home;
- (5) Public parks and recreational areas;
- (6) Community buildings and/or facilities owned and/or occupied by public agencies; and
- (7) Public and/or private schools.

(2002 Code, § 90-142)

(C) *Permitted accessory uses and structures.* The following uses are permitted accessory uses and structures in an A-2 District:

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures;
- (2) Home occupations in conformance with § 152.144 of this chapter;
- (3) Residences, including mobile homes for farm residence or adjacent farm residence for relatives and marriage or farm workers; and
- (4) Roadside stands for sale of agricultural produce.

(2002 Code, § 90-143)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an A-2 District:

- (1) Airports and heliports, including crop dusting;
- (2) Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
- (3) Places of worship such as churches, synagogues and temples;
- (4) Cemeteries, crematories, mausoleums and columbaria;

- (5) Child care centers;
- (6) Radio and television towers and transmitters;
- (7) Campgrounds;
- (8) Wind generating systems;
- (9) Kennels;
- (10) Public and private charitable institutions;
- (11) Greenhouses and nurseries; and
- (12) Animal clinics, animal hospitals and veterinarian services.

(2002 Code, § 90-144)

(E) *Prohibited uses and structures.* All uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the A-2 District.

(2002 Code, § 90-145)

(F) *Minimum area requirements.* Minimum area requirements in an A-2 District are as follows:

<i>Minimum Area Regulations</i>	
Lot area (in acres)	2.5
Lot width (in feet)	200
Required front yard (in feet)	50
Required rear yard (in feet)	50
Required side yard (in feet)	15

(2002 Code, § 90-146)

(G) *Maximum height.* The maximum height in an A-2 District is 35 feet; however, non-residential structures shall have no height limitations, except in conformance with the airport zoning regulations.

(2002 Code, § 90-147)

(H) *Sign regulations.* All signs in an A-2 District shall be in conformance with the provisions of § 152.142 of this chapter.

(2002 Code, § 90-148)

(I) *Parking regulations.* Parking in an A-2 District shall be in conformance with the provisions of § 152.139 of this chapter.

(2002 Code, § 90-149)

(Ord. 93-11, passed 9-28-1993; Ord. 2002-1, passed 2-12-2002)

RESIDENTIAL DISTRICTS

§ 152.060 PURPOSE AND OBJECTIVES.

The purposes and objectives of the residential districts are to preserve and protect areas in the city which by their locations, proximity to other land uses, the character of the natural environment and accessibility to public services and facilities exhibit a high potential as living areas for the people. The regulations are intended to preserve the quality and character of existing residential neighborhoods, as well as encourage continuing maintenance and rehabilitation by ensuring that incompatible uses of the land will not encroach upon the residential areas.

(2002 Code, § 90-181) (Ord. 93-11, passed 9-28-1993)

§ 152.061 R-1 RESIDENTIAL DISTRICT.

(A) *Intent.* The R-1 District is intended primarily to provide living areas within the city where development is limited to medium-density concentrations of one- and two-family dwellings where regulations are designed to accomplish the following:

- (1) To promote and encourage a suitable environment for family life;
- (2) To provide space for areas and for institutions which require a residential environment;
- (3) To minimize traffic congestion; and

(4) To avoid the overloading of utilities and public facilities designed to service only one- and two-family residential uses in accord with standards of the Comprehensive Plan.

(2002 Code, § 90-201)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an R-1 District:

- (1) Single-family dwellings;
- (2) Public and private schools;
- (3) Public parks, buildings and grounds;
- (4) Community buildings owned and/or occupied by public agencies;
- (5) Child care homes; and

(6) Manufactured homes for residential purposes; provided, the home complies with all provisions of § 152.140 of this chapter.
(2002 Code, § 90-202)

(C) *Permitted accessory uses and structures.* The following are permitted accessory uses and structures in an R-1 District:

(1) Accessory buildings or uses customarily incidental to the uses permitted in division (B) above; provided that:

(a) Collectively the area(s) occupied by all existing and proposed structures, do not exceed 50% of the entire lot area;

(b) Collectively the area of all accessory structures shall not exceed 1,064 square feet or 7% of the lot area up to 3,000 square feet, whichever is greater; and/or

(c) Shall be in conformance with the provisions of § 152.132 of this chapter.

(2) Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work; and

(3) Home occupations in conformance with § 152.144 of this chapter.
(2002 Code, § 90-203)

(D) *Permitted conditional uses.* A building or premises in an R-1 District may be used for the following in conformance with the prescribed conditions:

(1) For a bed and breakfast guest home:

(a) Parking as required in § 152.139 of this chapter;

(b) Signs in conformance with § 152.142 of this chapter;

(c) A maximum of four rooms or suites of rooms are made available for use as transient lodging; and

(d) The remainder of the dwelling shall be used and occupied full time, year-round as a residence by the host family.

(2) For a domestic shelter, the maximum number of occupants shall not exceed one person per 3,000 square feet of lot area.
(2002 Code, § 90-204)

(E) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an R-1 District:

(1) Two-family dwellings;

- (2) Townhouses;
- (3) Places of worship such as churches, synagogues and temples;
- (4) Private charitable institutions;
- (5) Cemeteries;

(6) Electrical distribution substations, gas regulator stations, communications equipment, buildings, public service pumping stations and/or elevated pressure tanks;

(7) Convalescent, nursing and rest homes, hospitals, medical and dental clinics, and other medical and health facilities;

- (8) Public parks and recreation areas;
- (9) Radio and television towers and transmitters;

(10) Swimming pools;

(11) Parking lots; and

(12) Accessory structures exceeding 3,000 square feet, but not to exceed 4,000 square feet or 7% of the total lot area.
(2002 Code, § 90-205)

(F) *Conditions and granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall apply as minimum height and area requirements for granting exceptions for two-family and townhouse dwellings:

<i>Area Regulations</i>	<i>Dwelling, Two-Family</i>	<i>Townhouse</i>
Height (in feet)	35	35
Lot area (square feet)	6,000/unit	5,000/unit
Lot width (in feet)	30/family	60
Required front yard (in feet)	30	30
Required rear yard (in feet)	Smaller of 35 feet or 20% of depth	Smaller of 35 feet or 20% of depth
Required side yard (in feet)	7 if party wall	7 if party wall

(2002 Code, § 90-206)

(G) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as conditional uses or exceptions shall be prohibited from the R-1 District.
(2002 Code, § 90-207)

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(H) *Height and area regulations.* The maximum height and minimum area regulations in an R-1 District shall be as follows:

(1) General requirements:

<i>Area Regulations</i>	<i>Dwelling, Single-Family</i>	<i>Other Permitted Uses</i>
Height (in feet)	35	35
Lot area (square feet)	7,000	7,000
Lot width (in feet)	60	60
Required front yard (in feet)	30	30
Required rear yard (in feet)	Smaller of 35 feet or 20% of depth	Smaller of 35 feet or 20% of depth
Required side yard (in feet)	7	7

(2) On cul-de-sac or loop streets, each lot shall have not less than 40 feet of frontage.

(3) Adjustments of the front yard may be made in accordance with the provisions of § 152.138 of this chapter.
(2002 Code, § 90-208)

(I) *Sign regulations.* All signs in an R-1 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-209)

(J) *Parking regulations.* Parking in an R-1 District shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-210)
(Ord. 93-11, passed 9-28-1993; Ord. 2004-15, passed 12-14-2004; Ord. 2010-14, passed 7-12-2010; Ord. 2010-17, passed 8-17-2010)

§ 152.062 R-2 RESIDENTIAL DISTRICT.

(A) *Intent.* The R-2 District is intended primarily to provide living areas within the city where development is limited to high-density concentrations of one-family, two-family and multi-family dwellings where regulations are designed to accomplish the following:

- (1) To promote and encourage a suitable environment for family life;
- (2) To provide space for community facilities needed to complement urban residential areas and for institutions which require a residential environment;
- (3) To minimize traffic congestion; and
- (4) To avoid the overloading of utilities and public facilities designed for service of

residential uses in accord with standards of the Comprehensive Plan.
(2002 Code, § 90-231)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an R-2 District:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Multi-family dwellings, to a maximum of six units;
- (4) Townhouses;
- (5) Public and private schools;
- (6) Public parks, buildings and grounds;
- (7) Community buildings owned and/or occupied by public agencies;
- (8) Child care homes; and

(9) Manufactured homes for residential purposes; provided, the home complies with all provisions of § 152.140 of this chapter.
(2002 Code, § 90-232)

(C) *Permitted accessory uses and structures.* The following are permitted accessory uses and structures in an R-2 District:

(1) Accessory uses and structures normally appurtenant to the permitted uses and structures; provided that:

(a) Collectively the area(s) occupied by all existing and proposed structures, do not exceed 50% of the entire lot area;

(b) Collectively the area of all accessory structures shall not exceed 1,064 square feet or 7% of the lot area up to 3,000 square feet, whichever is greater; and

(c) Shall be in conformance with the provisions of § 152.132 of this chapter.

(2) Home occupations in conformance with § 152.144 of this chapter; and

(3) Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.

(D) *Permitted conditional uses.* A building or premises in an R-2 District may be used for the following in conformance with the prescribed conditions:

(1) For a bed and breakfast guest home:

(a) Parking as required in § 152.139 of this chapter;

(b) Signs in conformance with § 152.142 of this chapter;

(c) A maximum of four rooms or suites of rooms are made available for use as transient lodging; and

(d) The remainder of the dwelling shall be used and occupied full time, year-round as a residence by the host family.

(2) For a domestic shelter, the maximum number of occupants shall not exceed one person per 1,000 square feet of lot area.

(2002 Code, § 90-234)

(E) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an R-2 District:

(1) Places of worship such as churches, synagogues and temples;

(2) Private charitable institutions;

(3) Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;

(4) Cemeteries;

(5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations and/or elevated pressure tanks;

(6) Convalescent, nursing and rest homes, hospitals, medical and dental clinics and other medical and health facilities;

(7) Parking lots; and

(8) Accessory structures exceeding 3,000 square feet but not to exceed 4,000 square feet or 7% of the total lot area.

(2002 Code, § 90-235)

(F) *Conditions for granting exceptions.* The requirements of §§ 152.195 through 152.202 of this chapter shall apply as minimum requirements for granting exceptions in an R-2 District.

(2002 Code, § 90-236)

(G) *Prohibited uses and structures.* All other uses and structures which are not specifically

permitted or not permissible as conditional uses or exceptions shall be prohibited from the R-2 District. (2002 Code, § 90-237)

(H) *Height and area regulations.* The maximum height and minimum area regulations in an R-2 District shall be as follows:

(1) General requirements:

<i>Area Regulations</i>	<i>Dwelling, Single-Family</i>	<i>Dwelling, Two-Family</i>	<i>Townhouse</i>	<i>Multi-Family Dwellings</i>	<i>Other Permitted Uses</i>
Height (in feet)	35	35	35	35	35
Lot area (in square feet)	7,000 square feet	3,000 per family	3,000 per unit	3,000 per unit	3,000
Lot width (in feet)	60	30 per family	30 per unit	60	60
Required front yard (in feet)	25	25	25	25	25
Required rear yard (in feet)	Smaller of 35 feet or 20% of lot	Smaller of 35 feet or 20% of lot	Smaller of 35 feet or 20% of lot	Smaller of 35 feet or 20% of lot	Smaller of 35 feet or 20% of lot
Required side yard (in feet)	5	5 if party wall	5 if party wall	7	5

(2) The height of all structures shall be in conformance with the airport zoning regulations.

(3) On cul-de-sac and loop streets, each lot shall have not less than 40 feet of frontage.

(4) Adjustments to the front yard may be made in accordance with the provisions of § 152.138 of this chapter. (2002 Code, § 90-238)

(I) *Sign regulations.* All signs in an R-2 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter. (2002 Code, § 90-239)

(J) *Parking regulations.* Parking in an R-2 District shall be in conformance with the provisions of § 152.139 of this chapter. (2002 Code, § 90-240)
 (Ord. 93-11, passed 9-28-1993; Ord. 94-9, passed 5-10-1994; Ord. 97-1, passed 2-11-1997; Ord. 2004-15, passed 12-14-2004; Ord. 2010-14, passed 7-12-2010; Ord. 2010-17, passed 8-17-2010)

§ 152.063 R-3 RESIDENTIAL DISTRICT.

(A) *Intent.* The R-3 District is intended primarily to provide living areas within the city where development is limited to high-density concentrations of multiple-family dwellings and single-family

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dwellings which are compatible in character and density with the multiple-family residential environment where regulations are designed to accomplish the following:

- (1) To promote and encourage a suitable environment for family life;
- (2) To provide space for community facilities needed to complement urban residential areas and for institutions which require a residential environment;
- (3) To minimize traffic congestion; and
- (4) To avoid the overloading of utilities and public facilities designed to service only residential and residential service uses in accord with standards of the Comprehensive Plan.
(2002 Code, § 90-261)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an R-3 District:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Multiple-family dwellings;
- (4) Townhouses;
- (5) Public and private schools;
- (6) Public parks, buildings and grounds;
- (7) Child care homes;
- (8) Community buildings owned and/or occupied by public agencies; and
- (9) Manufactured homes for residential purposes, provided the home complies with all provisions of § 152.140 of this chapter.
(2002 Code, § 90-262)

(C) *Permitted accessory uses and structures.* The following are permitted accessory uses and structures in an R-3 District:

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures; provided that:
 - (a) Collectively the area(s) occupied by all existing and proposed structures, do not exceed 50% of the entire lot area;
 - (b) Collectively the area of all accessory structures shall not exceed 1,064 square feet or

7% of the lot area up to 3,000 square feet, whichever is greater; and

(c) Shall be in conformance with the provisions of § 152.132 of this chapter.

(2) Home occupations in conformance with § 152.144 of this chapter; and

(3) Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.

(2002 Code, § 90-263)

(D) *Permitted conditional uses.* A building or premises in an R-3 District may be used for the following in conformance with the prescribed conditions:

(1) For a bed and breakfast guest home:

(a) Parking as required in § 152.139 of this chapter;

(b) Signs in conformance with § 152.142 of this chapter;

(c) A maximum of four rooms or suites of rooms are made available for use as transient lodging; and

(d) The remainder of the dwelling shall be used and occupied full time, year-round as a residence by the host family.

(2) For a domestic shelter, the maximum number of occupants shall not exceed one person per 1,000 square feet of lot area.

(2002 Code, § 90-264)

(E) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an R-3 District:

(1) Places of worship such as churches, synagogues and temples;

(2) Private charitable institutions;

(3) Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;

(4) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations and/or elevated pressure tanks;

(5) Convalescent, nursing and rest homes;

(6) Hospitals, medical and dental clinics and other medical and health facilities;

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(7) Funeral homes and funeral chapels;

(8) Child care centers;

(9) Parking lots;

(10) Accessory structures exceeding 3,000 square feet, but not to exceed 4,000 square feet or 7% of the total lot area; and

(11) Private recreation building (controlled impact).
(2002 Code, § 90-265)

(F) *Conditions for granting exceptions.* The requirements of §§ 152.195 through 152.202 of this chapter shall apply as minimum requirements for granting exceptions in the R-3 District.
(2002 Code, § 90-266)

(G) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the R-3 District.
(2002 Code, § 90-267)

(H) *Height and area regulations.* The maximum height and minimum area regulations in an R-3 District shall be as follows:

(1) General requirements:

<i>Area Regulations</i>	<i>Dwelling, Single-Family</i>	<i>Dwelling, Two-Family</i>	<i>Townhouse</i>	<i>Multi-Family Dwellings</i>	<i>Other Permitted Uses</i>
Height (in feet)	35	35	35	35	35
Lot area (in square feet)	5,500	2,750 per family	2,000 per unit	1,500 per unit	3,000
Lot width (in feet)	50	30 per family	25 per unit	50	-
Required front yard (in feet)	25	25	25	25	25
Required rear yard (in feet)	Smaller of 20 feet or 20% of lot	Smaller of 20 feet or 20% of lot	Smaller of 20 feet or 20% of lot	Smaller of 20 feet or 20% of lot	Smaller of 20 feet or 20% of lot
Required side yard (in feet)	5	5 if party wall	5 if party wall	5 if party wall	-

(2) The height of all structures shall be in conformance with the airport zoning regulations.

(3) On cul-de-sac and loop streets, each lot shall have not less than 40 feet of frontage.

(4) Adjustments to the front yard may be made in accordance with the provisions of § 152.138 of this chapter.

(2002 Code, § 90-268)

(I) *Sign regulations.* All signs in an R-3 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.

(2002 Code, § 90-269)

(J) *Parking regulations.* Parking in an R-3 District shall be in conformance with the provisions of § 152.139 of this chapter.

(2002 Code, § 90-270)

(Ord. 93-11, passed 9-28-1993; Ord. 94-9, passed 5-10-1994; Ord. 2004-15, passed 12-14-2004; Ord. 2006-16, passed 7-25-2006; Ord. 2010-14, passed 7-12-2010; Ord. 2010-17, passed 8-17-2010; Ord. 2012-25, passed 6-19-2012)

§ 152.064 R-4 RESIDENTIAL DISTRICT.

(A) *Intent.* It is the intent of the R-4 District to provide for high-density residential development, including multi-family, mobile home parks and areas where individuals may purchase lots and attach mobile homes. Mobile home parks are considered as a residential use and should be located in areas where services and amenities are available such as those found in conventional residential uses.

(2002 Code, § 90-291)

(B) *Permitted principal uses and structures.* The following shall be permitted by right in an R-4 District:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Mobile homes for residential purposes;
- (4) Multiple-family dwellings;
- (5) Public parks, buildings and grounds;
- (6) Child care homes;
- (7) Mobile home parks; and

(8) Manufactured homes for residential purposes, provided the home complies with § 152.140 of this chapter.

(2002 Code, § 90-292)

(C) *Permitted accessory uses and structures.* The following are permitted accessory uses and structures in an R-4 District:

- (1) Home occupations in conformance with § 152.144 of this chapter;

(2) Accessory uses and structures normally appurtenant to the permitted uses and structures; provided that:

(a) Collectively the area(s) occupied by all existing and proposed structures, do not exceed 50% of the entire lot area;

(b) Collectively the area of all accessory structures shall not exceed 1,064 square feet or 7% of the lot area up to 3,000 square feet, whichever is greater; and

(c) Shall be in conformance with the provisions of § 152.132 of this chapter.

(3) Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.

(2002 Code, § 90-293)

(D) *Permitted conditional uses.*

(1) A building or premises in an R-4 District may be used for the following in conformance with the conditions prescribed in this section:

(a) For a bed and breakfast guest home:

1. Parking as required in § 152.139 of this chapter;

2. Signs as required in § 152.142 of this chapter;

3. A maximum of four rooms or suites of rooms are made available for use as transient lodging; and

4. The remainder of the dwelling shall be used and occupied full time, year-round as a residence by the host family.

(b) For a domestic shelter, the maximum number of occupants shall not exceed one person per 750 square feet of lot area.

(2) Exceptions, in accordance with §§ 152.195 through 152.202 of this chapter, are:

(a) Child care centers; and

(b) Accessory structures exceeding 3,000 square feet, but not to exceed 4,000 square feet or 7% of the total lot area.

(2002 Code, § 90-294)

(E) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the R-4 District.

(2002 Code, § 90-295)

(F) *Height and area regulations.* The maximum height and minimum area regulations in an R-4 District shall be as follows:

(1) General requirements:

<i>Area Regulations</i>	<i>Mobile Home</i>	<i>Dwelling, Single-Family</i>	<i>Dwelling, Two-Family</i>	<i>Multi-Family Dwellings</i>	<i>Other Permitted Uses</i>
Height (in feet)	35	35	35	45	35
Lot area (in square feet)	4,400	4,400 per family	2,200 per unit	1,500 per unit	4,400
Lot width (in feet)	50	50	25 per unit	50	50
Required front yard (in feet)	25	25	25	25	25
Required rear yard (in feet)	Smaller of 25 feet of 20% of lot	Smaller of 25 feet of 20% of lot	Smaller of 25 feet of 20% of lot	Smaller of 25 feet of 20% of lot	Smaller of 25 feet of 20% of lot
Required side yard (in feet)	5	5	5	5	5

(2) The height of all structures shall be in conformance with the airport zoning regulations.

(3) On cul-de-sac and loop streets, each lot shall have not less than 40 feet of frontage.

(4) Adjustments to the front yard may be made in accordance with the provisions of § 152.138 of this chapter.
(2002 Code, § 90-296)

(G) *Sign regulations.* All signs in an R-4 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-297)

(H) *Parking regulations.* Parking in an R-4 District shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-298)
(Ord. 93-11, passed 9-28-1993; Ord. 97-1, passed 2-11-1997; Ord. 2004-15, passed 12-14-2004; Ord. 2010-14, passed 7-12-2010; Ord. 2010-17, passed 8-17-2010)

§ 152.065 R-5 RESIDENTIAL DISTRICT.

(A) *Intent.* The R-5 District is designed to permit and encourage creative design in new housing subdivisions to provide for development of affordable housing by allowing flexibility in the design of buildings, open space, infrastructure and subdivision design.
(2002 Code, § 90-311)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an R-5 District:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Child care homes;
- (4) Public and private schools;
- (5) Public or private parks, buildings and grounds; and

(6) Community buildings owned and/or occupied by public agencies.
(2002 Code, § 90-312)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in an R-5 District:

(1) Accessory uses and structures normally appurtenant to the permitted uses and structures; provided that:

(a) Collectively the area(s) occupied by all existing and proposed structures, do not exceed 50% of the entire lot area; and

(b) Shall be in conformance with the provisions of § 152.132 of this chapter.

(2) Home occupations in conformance with § 152.144 of this chapter.
(2002 Code, § 90-313)

(D) *Permitted conditional uses.* A building or premises in an R-5 District may be used for a domestic shelter in conformance with the conditions prescribed in this section. The maximum number of occupants of such facility shall not exceed one person per 750 square feet of lot area.
(2002 Code, § 90-314)

(E) *Special exception uses.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an R-5 District:

- (1) Places of worship such as churches, synagogues and temples and parish houses;
- (2) Private charitable institutions;
- (3) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations and/or elevated pressure tanks;
- (4) Radio and television towers and transmitters;

(5) Townhouses;

(6) Parking lots; and

(7) Accessory structures exceeding 3,000 square feet, but not to exceed 4,000 square feet or 7% of the total lot area.
(2002 Code, § 90-315)

(F) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as exceptions or conditional uses shall be prohibited from the R-5 District.
(2002 Code, § 90-316)

(G) *General provisions.* The minimum requirements and standards established in this section apply only to R-5 Districts. The minimum size for the zoned area to be developed shall be seven acres.
(2002 Code, § 90-317)

(H) *Height and area regulations.* The maximum height and minimum area regulations for an R-5 District shall be as follows:

(1) General requirements:

<i>Area Regulations</i>	<i>Dwelling, Single-Family</i>	<i>Dwelling, Two-Family</i>	<i>Other Permitted Uses</i>
Height (in feet)	35	35	35
Lot area (in square feet)	5,000	2,500 per family	5,000
Lot width (in feet)	40	40 per family	40
Required front yard (in feet)	15	15	15
Required rear yard (in feet)	Smaller of 20 feet or 20% of lot	Smaller of 20 feet or 20% of lot	Smaller of 20 feet or 20% of lot
Required side yard (in feet)	5	5 if party wall	5

(2) The height of all structures shall be in conformance with the airport zoning regulations.

(3) There shall be a minimum lot width of 50 feet for all corner lots.

(4) Adjustments to the front yard may be made in accordance with the provisions of § 152.138 of this chapter.
(2002 Code, § 90-318)

(I) *Design standards and requirements.* The following minimum design standards shall be required in an R-5 District:

(1) For streets:

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(a) A right-of-way width of 50 feet unless a collector or arterial street;

(b) A pavement width of 27 feet, which allows parking on one side only; pavement located within the right-of-way so as to provide a minimum of 14 feet between the curb and property line on the sidewalk side of the street;

(c) All streets shall be looped, curvilinear or end in a cul-de-sac street, or combination, to discourage through traffic;

(d) Curbs and gutters are required; and

(e) Curbs may be designed to allow access onto lots without the necessity of curb cuts. The curb design must be in conformance with standards adopted by the city.

(2) Two off-street parking stalls shall be provided for each dwelling unit;

(3) Sidewalks:

(a) Shall be provided with a width of at least four feet; and

(b) Should be a function of the site design and their location decided upon on a case-by-case basis. They may be located on an easement at the rear of property lines or on only one side of a street. On arterial and collector streets, sidewalks shall be provided on both sides of the street.

(4) Utility, drainage, sidewalks and zero lot line easements shall be provided as required;

(5) Required open recreational areas are required as follows.

(a) Every R-5 development shall provide an area to be used as a permanent usable open space recreation area, exclusive of lots, parking areas and streets. The size of the open space area shall be a total of 500 square feet per lot for all lots within the development. The minimum size, however, shall be no less than one-half acre.

(b) For the purposes of this section, **USABLE OPEN SPACE RECREATION AREA** shall mean an area that:

1. Is developed, vegetated and landscaped for open areas, ball fields, picnic areas, trails or similar facilities;

2. Is legally accessible to all residents of the development or to the public if dedication is required or accepted by the city;

3. Within three years following the approval of the zoning, all of the recreational facilities shown on the approved development concept plan shall be installed by the developer;

4. All open space recreational areas exceeding five acres in size may be dedicated to the city. Unless dedicated to and accepted by the city, all required open space recreational areas shall remain under the ownership and control of the developer or a homeowners' association;

5. The entity exercising ownership and control of the open space recreational area shall be responsible for the continuing upkeep and proper maintenance of the area; and

6. a. In reference to this section, a homeowners' association, who shall be responsible for the maintenance and control of the open space recreational areas, shall be established. Provisions for the establishment of the association shall be made and recorded or required by law prior to the sale of any lot in the development. These provisions shall establish that the association has the clear legal authority and duty to maintain and exercise control over the recreational areas, including all facilities placed upon this area.

b. These provisions shall show that the association has the power to compel contributions from residents in the development to cover their proportionate shares in the cost of maintenance and upkeep of the open space recreational areas.

(2002 Code, § 90-319)

(Ord. 93-11, passed 9-28-1993; Ord. 2004-15, passed 12-14-2004; Ord. 2010-14, passed 7-12-2010; Ord. 2010-17, passed 8-17-2010)

BUSINESS AND COMMERCIAL DISTRICTS

§ 152.080 B-1 HIGHWAY BUSINESS DISTRICT.

(A) *Intent.* The B-1 District is intended primarily for application to areas along major highway entrances to the city in accord with policies of the Comprehensive Plan where controlled access to the highway is afforded and offering a desired convenience to the motoring public.

(2002 Code, § 90-351)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in a B-1 District:

(1) Establishments which provide services or supply commodities primarily for the convenience of patrons traveling on state highways and major county road entrances to the city, including:

(a) Building material sales, and non-livestock auction rooms and monument sales;

(b) Bus depots and transit stations;

(c) Car/truck wash establishments, subject to division (E) below;

(d) Commercial recreational facilities such as golf putting courses, golf driving ranges,

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drive-in movie theaters subject to division (E) below, riding stables, bowling alleys and other similar recreational uses;

- (e) Construction sales and services;
- (f) Convenience stores, as defined in § 152.010 of this chapter;
- (g) Banks and other lending agencies, detached banking facilities and automatic teller machines subject to division (E) below;
- (h) Equipment and supply rental establishments;
- (i) Feed and seed establishments;
- (j) Finance, insurance and real estate services;
- (k) Foodstores, delicatessens and supermarkets;
- (l) Freight terminals;
- (m) Garden centers, plant nurseries and greenhouses;
- (n) Hotels and motels;
- (o) Ice cream and confectionery stores;
- (p) Miniwarehouses;
- (q) Model home displays and mobile and modular home sales;
- (r) Museums and art galleries;
- (s) Orchards, including the retail sales of produce with the retail sale of food items, nursery stock, Christmas trees and gifts as accessory uses subordinate to the sale of produce;
- (t) Public and private charitable institutions;
- (u) Raising of crops, pasturing of livestock (in accordance with all other city ordinances) and other open space agricultural uses, but not including any confined livestock feeding or any agricultural related buildings;
- (v) Repair garages, automobile service stations and major body repair, but not including the dismantling or wrecking of vehicles or the storage of damaged or inoperable vehicles;
- (w) Restaurants, eating establishments, cafés and food services, subject to division (E) below;

(x) Sales, rental and display of automobiles, trucks, large construction and earth-moving equipment and implements, campers, recreational vehicles, cycles, mobile homes, modular homes, boats and farm machinery; provided that, all servicing and maintenance shall be conducted entirely within completely enclosed buildings;

(y) Service stations;

(z) Stores or shops for the sale of goods at retail;

(aa) Taverns and nightclubs;

(bb) Theaters;

(cc) Transportation warehousing; and

(dd) Wholesale sales and services.

(2) Signs subject to § 152.142 of this chapter;

(3) Roadside rest areas; and

(4) Video rental (general public).

(2002 Code, § 90-352)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in a B-1 District:

(1) Uses and structures incidental to the permitted uses;

(2) Storage warehouses in conjunction with permitted principal uses;

(3) Temporary buildings used in conjunction with construction; provided, such buildings are removed promptly upon completion of the construction work;

(4) Offices and other necessary uses which are incidental to, maintained on the same lot with and commonly associated with the operation of a principal use;

(5) Gift and curio shops when conducted in the same building with a restaurant, convenience store, motel or hotel; and

(6) Off-street parking and loading facilities.

(2002 Code, § 90-353)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in a B-1 District:

(1) Recreational vehicle parks and campgrounds;

(2) Private clubs and lodges;

(3) Veterinarian, veterinarian services or animal hospitals; provided, any such building, kennel or exercise runway is located at least 100 feet from any R district boundary;

(4) Truck stops, including those with complete truck services; provided that, all maintenance and services not commonly provided at fuel islands shall be conducted within entirely enclosed buildings;

(5) Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private non-profit schools, churches, parsonages and other religious institutions, parks and playgrounds;

(6) Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities;

(7) Package liquor stores;

(8) Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;

(9) Adult media outlet, including, but not limited to, the following:

(a) Adult books, periodicals and magazines displaying or depicting sexually explicit information or photos;

(b) Sale or rental of any adult video or any pre-recorded media that exhibits or displays any sexual oriented activity or anatomical area; and

(c) Shall not include a sex-shop, or any business featuring or including live entertainment.

(10) Kennels; and

(11) Vehicle towing service.
(2002 Code, § 90-354)

(E) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall apply as minimum requirements for all uses in the B-1 District.

(1) Where a site adjoins or is located across an alley from any residential district, a solid wall or fence, vine-covered open fence or compact evergreen hedge six feet in height shall be located on the property line common to such districts, except in a required front yard.

(2) Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six feet in height; provided that, no materials or equipment shall be stored to a height greater than that of the wall or fence.

(3) No use shall be permitted and no process, equipment or materials shall be used which are found by the Board of Adjustment to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare or unsightliness or to involve any hazard or fire or explosion.

(4) Any proposed use which is otherwise permitted in the B-1 zone which requires, uses or proposes to construct or use a drive-up, drive-through or drive-in intended to provide customers in-vehicle access to a product or service shall be considered a use by exception. Together with the provisions of §§ 152.195 through 152.202 of this chapter, the Council shall consider whether sufficient vehicle stack or queue space is provided on site. In addition to the space at which the product or service is dispensed, at least three stack or queue spaces will be provided, as a minimum. No stack or queue is permitted to occupy public right-of-way.

(5) Adult media outlet as set forth in division (D)(9) above shall not be located nearer than 500 feet of the following:

(a) A church, synagogue, mosque, temple or any other building which is used primarily for religious purposes and activities;

(b) A public or private educational facility including, but not limited to, child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities and shall include the school grounds of the above identified schools;

(c) Any park, children's playground area or youth sports complex including activity center;

(d) A property line of any lot devoted to a residential use;

(e) A hospital;

(f) A senior citizen center;

(g) A public library; or

(h) Any building owned and/or used by a political subdivision.

(6) For purposes of division (E)(5) above, 500 feet shall be measured in a straight line, along the pedestrian way, the shortest walking distance from the front or main door of the adult business to the front or main door of the use or uses identified in the above divisions (E)(5)(a) through (E)(5)(h) above.

(7) Storage of towed vehicles:

(a) Vehicles shall only be stored on-site, pending settlement or legal disposition of vehicles by insurance carrier and/or owner;

(b) All towed and stored vehicles shall be stored behind the front building line;

(c) No demolition of towed or stored vehicles shall be allowed;

(d) All stored vehicles shall be owned by persons other than the towing service owner/operator and/or land owner;

(e) All vehicles shall be stored behind a solid barrier fence of sufficient height to disallow visibility. Height of fence to be set by Planning Commission at the public hearing; and

(f) Use by exception shall only be effective upon compliance to all conditions as set forth by City Council and verified by the Zoning Administrator
(2002 Code, § 90-355)

(F) *Prohibited uses and structures.* All of the uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the B-1 district.
(2002 Code, § 90-356)

(G) *Minimum lot requirements.* The minimum lot area for permitted uses in the B-1 District shall be 12,000 square feet.
(2002 Code, § 90-357)

(H) *Minimum yard requirements.* The minimum requirements are as follows.

(1) *Front yard.* There shall be a minimum front yard of not less than a depth of 100 feet from the centerline of a federal aid-primary designated street or highway or 35 feet from the property line, whichever is greater. In all other streets or highways, there shall be a minimum front yard of not less than a depth of 25 feet from the property line. These yard requirements shall apply to any yard abutting a federal aid-primary designated street or highway regardless of the lot being an interior or corner lot.

(2) *Rear yard.* No rear yard is required, except the minimum rear yard abutting an R District shall be 25 feet.

(3) *Side yard.* No side yard is required, except the minimum side yard abutting an R District shall be ten feet.

(4) *Distance between structures.* The minimum distances between a residential or other principal structure and other structure shall be ten feet.
(2002 Code, § 90-358)

(I) *Maximum height.* No structure in the B-1 District shall exceed 45 feet, subject to the

provisions and in conformance with airport zoning regulations.
(2002 Code, § 90-359)

(J) *Sign regulations.* All signs in the B-1 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-360)

(K) *Parking regulations.* Parking in the B-1 District shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-361)

(L) *Screening.* In the B-1 District, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high, or a ten-foot landscape buffer consisting of trees, shrubs and evergreens, shall be provided adjacent to any adjoining residential use; however, if the adjacent residential use and the commercial development are separated by a street right-of-way, such fence, wall or landscape buffer shall not be required. All fences, walls or buffers shall be maintained by the owner of the property. The finished appearance of the fence shall face the residential use.
(2002 Code, § 90-362)
(Ord. 93-11, passed 9-28-1993; Ord. 2005-7, passed 4-12-2005; Ord. 2005-36, passed 12-20-2005; Ord. 2007-15, passed 12-4-2007; Ord. 2011-24, passed 11-15-2011)

§ 152.081 B-2 CENTRAL BUSINESS DISTRICT.

(A) *Intent.* The intent of the B-2 District is to provide a commercial area for those establishments serving the general shopping needs of the trade area and, in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities. Highest density and intensity of use is permitted in this district.
(2002 Code, § 90-391)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in the B-2 District:

- (1) Business offices;
- (2) Professional offices and services; and
- (3) Retail stores and service establishments which supply commodities or provide services primarily to meet the needs of residents of the trade area, including:
 - (a) Apparel stores;
 - (b) Art, craft, antique and hobby schools or galleries, stores or supply stores;
 - (c) Auto sales and services, including open-air display of new or used cars;

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- (d) Bakeries;
- (e) Banks and other lending agencies, detached banking facilities and automatic teller machines subject to division (E) below;
- (f) Barbershops, beauty parlors, tanning salons and shoeshine shops;
- (g) Bars, cocktail lounges, nightclubs and taverns;
- (h) Billiard and pool halls;
- (i) Bookstores and rental libraries;
- (j) Bus depots and transit stations; provided that, business or other transit vehicles shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site;
- (k) Clothing and costume rental establishments;
- (l) Coin-operated laundromats, excluding dry cleaning;
- (m) Communications equipment buildings;
- (n) Cycle sales and service;
- (o) Drugstores and pharmacies;
- (p) Dry cleaning and laundry agencies; provided that, cleaning and laundering is not done on the premises;
- (q) Electrical appliances and incidental repair shops;
- (r) Employment agencies;
- (s) Exterminators;
- (t) Feed and seed stores; provided that, sales and storage are confined within an enclosed structure;
- (u) Food lockers (no slaughtering);
- (v) Foodstores, delicatessens and supermarkets;
- (w) Funeral homes and mortuaries;
- (x) Garden supply stores and nurseries; provided that, all equipment, supplies, merchandise and plants shall be kept within a completely enclosed building, and provided that fertilizer of any type shall be stored and sold in packaged form only;

- (y) Hardware stores;
- (z) Hotels, motels and apartment hotels, defined as having cooking facilities for daily or weekly rent;
- (aa) Medical buildings and offices;
- (bb) Medical or orthopedic equipment stores;
- (cc) Meeting halls;
- (dd) Messengers and parcel delivery services;
- (ee) Museums and art galleries;
- (ff) Office and office buildings other than professional and administrative offices;
- (gg) Office supply/service centers;
- (hh) Parking lots, parking garages and other off-street parking facilities;
- (ii) Photograph studios;
- (jj) Pressing, altering and repairing of wearing apparel establishments;
- (kk) Private schools, including, but not limited to, business or commercial schools, dance or music academies and nursery preschools;
- (ll) Public and private charitable institutions;
- (mm) Publishing, printing and copy and word processing services;
- (nn) Radio and television, office equipment, electrical and electronic stores and repair shops;
- (oo) Restaurants and cafés;
- (pp) Retail store, shops and boutiques;
- (qq) Sales and showrooms, including service facilities and rentals; provided, all displays and merchandise are within the enclosure walls of the buildings;
- (rr) Secondhand stores and pawnshops;
- (ss) Shoe stores;

(tt) Signs and outdoor advertising structures in accordance with the provisions of § 152.142 of this chapter;

(uu) Specialty shops, such as:

1. Camera shops, photographic supplies and photograph studios;
2. Dairy product stores;
3. Florists;
4. Garden shops;
5. Gunsmith shops;
6. Home furnishings;
7. Furniture and household appliance stores and repair shops;
8. Interior decorating shops;
9. Jewelry stores and clock and watch repairing;
10. Leather goods and luggage stores;
11. Music and dance studios;
12. Music stores;
13. Paint and wallpaper stores;
14. Pet and bird stores;
15. Stamp and coin stores;
16. Stationery stores;
17. Taxidermists;
18. Tobacco stores; and
19. Toy stores.

(vv) Sporting good stores;

(ww) Stores or shops for the sale of goods at retail;

- (xx) Tailor and dressmaker shops;
- (yy) Telemarketing service and other telecommunication service;
- (zz) Telephone answering/paging services;
- (aaa) Theaters and auditoriums; and
- (bbb) Upholstery shops.

(2002 Code, § 90-392)

(C) *Permitted accessory uses and structures.* Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions are permitted in the B-2 District; provided that, they shall be in conformance with the provisions of § 152.132 of this chapter.

(2002 Code, § 90-393)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in the B-2 District:

- (1) Child care homes and centers;
- (2) Cleaning and laundry on premises;
- (3) Commercial recreation facilities (bowling alleys, miniature golf courses, dancehalls and similar uses);
- (4) Electric distribution substations and gas regulator stations;
- (5) Private clubs and lodges;
- (6) Service stations (gasolines), excluding automotive repair services not included in the definition of “service station” as provided by this chapter; provided that, all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides;
- (7) Storage garages and miniwarehouses;
- (8) Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private non-profit schools, churches, parsonages and other religious institutions; parks and playgrounds;
- (9) Public uses of an administrative, public service or cultural type, including city, county, state or federal post offices, administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities;
- (10) Public utility facilities;

(11) Sports arenas within buildings;

(12) Temporary shelter for homeless; and

(13) Manufactured homes for residential purposes; provided, the home complies with all provisions of § 152.140 of this chapter.

(2002 Code, § 90-394)

(E) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall apply as minimum requirements for all uses in the B-2 District.

(1) Where a site adjoins or is located across an alley from any residential district, a solid wall or fence, vine-covered open fence or compact evergreen fence six feet in height shall be located on the property line common to such districts, except in a required front yard.

(2) Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six feet in height; provided that, no materials or equipment shall be stored to a height greater than that of the wall or fence.

(3) All businesses, services and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and off-street loading areas, gasoline service stations, garden shops, bus depot and transit stations, electric distribution substations and automobile sales.

(4) Proposed use which is otherwise permitted in the B-2 Zone which requires, uses or proposes to construct or use a drive-up, drive-through or drive-in intended to provide customers in-vehicle access to a product or service shall be considered a use by exception. Together with the provisions of §§ 152.195 through 152.202 of this chapter, the Planning Commission shall consider whether sufficient vehicle stack or queue space is provided on site. In addition to the space at which the product or service is dispensed, at least three stack or queue spaces will be provided, as a minimum. No stack or queue is permitted to occupy public right-of-way.

(2002 Code, § 90-395)

(F) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the B-2 District.

(2002 Code, § 90-396)

(G) *Minimum lot requirements.* There are no lot limitations in the B-2 District.

(2002 Code, § 90-397)

(H) *Minimum yard requirements.*

(1) *Front yard.* No limitations; provided that, where a lot is abutting on property in any residential district and fronting on the same street, there shall be a minimum front yard of ten feet.

(2) *Distances between a structure on an adjacent property.* The minimum distance between a

structure on an adjacent property, the principal use of which is residential, and any other structure not in common ownership, shall be ten feet, except as follows: a duplex residential use in common wall construction under provisions of division (D) above and the design of which meets Building and Life Safety Code requirements may be considered a special condition as though provided in division (E) above and §§ 152.195 through 152.202 of this chapter.
(2002 Code, § 90-398)

(I) *Maximum height.* No structure in the B-2 District shall exceed 75 feet, subject to the provisions and in conformance with airport zoning regulations.
(2002 Code, § 90-399)

(J) *Sign regulations.* All signs in the B-2 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-400)

(K) *Parking regulations.* Except as specified for the residential uses, on-site parking shall not be required in the B-2 District.
(2002 Code, § 90-401)

(L) *Permitted conditional uses.* A building or premises in a B-2 District may be used for the following in conformance with the prescribed conditions:

(1) Multi-family residential uses:

(a) Provided that, such use shall meet the State Fire Marshal's requirements;

(b) Provided, the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this division (L);

(c) Provided, a minimum of two off-street parking spaces for each unit are available;

(d) Provided, the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for non-residential use; and

(e) Provided, the lot must also contain an existing non-residential use.

(2) Single-family dwelling; provided:

(a) Provided that, such use shall meet the State Fire Marshal's requirements;

(b) Provided, the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this division (L);

(c) Provided, a minimum of two off-street parking spaces for each unit are available;

(d) Provided, the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for non-residential use; and

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(e) Provided, the lot must also contain an existing non-residential use.

(3) Two-family dwelling; provided:

(a) Provided that, such use shall meet the State Fire Marshal's requirements;

(b) Provided, the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this division (L);

(c) Provided, a minimum of two off-street parking spaces for each unit are available;

(d) Provided, the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for non-residential use; and

(e) Provided, the lot must also contain an existing non-residential use.

(2002 Code, § 90-402)

(Ord. 93-11, passed 9-28-1993; Ord. 95-5, passed 4-11-1995; Ord. 97-1, passed 2-11-1997; Ord. 2004-15, passed 12-14-2004; Ord. 2011-27, passed 11-15-2011)

§ 152.082 B-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

(A) *Intent.* The B-3 District is intended primarily for provisions of retail and personal services, professional and business office uses and retail activities which dispense convenience goods or services directly to consumers on the premises. These districts are characteristically small.

(2002 Code, § 90-421)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in a B-3 District:

(1) Business offices;

(2) Professional offices;

(3) Retail stores and service establishments which supply commodities or provide services primarily to meet the convenience needs of residents of one or more residential neighborhoods, including:

(a) Apparel stores;

(b) Automobile parking;

(c) Bakery goods store;

(d) Banks and other lending agencies, detached banking facilities and automatic teller machines, subject to division (E) below;

- (e) Barbershops, beauty parlors, tanning salons and shoeshine shops;
- (f) Bookstores;
- (g) Car wash establishments, subject to division (E) below;
- (h) Charitable institutions (soup kitchens, missions, food pantries);
- (i) Cleaning agencies (pickup and delivery only);
- (j) Clinic (medical);
- (k) Coin-operated laundromats, excluding dry cleaning;
- (l) Drugstores and pharmacies;
- (m) Dry cleaning and laundry agencies; provided that, cleaning and laundering is not done on the premises;
- (n) Electrical appliances and incidental repair shops;
- (o) Food lockers (no slaughtering);
- (p) Foodstores, delicatessens and supermarkets;
- (q) Funeral homes and mortuaries;
- (r) Garden supply stores and nurseries, provided that all equipment, supplies, merchandise and plants shall be kept within a completely enclosed building; and, provided that, fertilizer of any type shall be stored and sold in packaged form only;
- (s) Hardware stores;
- (t) Medical, pharmaceutical, dental and related health care and personal services;
- (u) Pressing, altering and repairing of wearing apparel establishments;
- (v) Radio and television, office equipment, electrical and electronic equipment stores and repair shops;
- (w) Restaurants, cafeterias, tearooms and cafés, including outdoor cafés;
- (x) Shoe stores;
- (y) Specialty shops such as:

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1. Camera shops, photographic supplies and photograph studios;
2. Candy and confectionery;
3. Dairy products;
4. Florists;
5. Gift shops;
6. Hobby and art supply;
7. Locksmiths;
8. Newsstand/magazine;
9. Soda fountains;
10. Stationery stores; and
11. Video and electronic rentals.

(z) Tailor and dressmaker shops; and

(aa) Variety stores.

(4) Signs in accordance with the provisions of § 152.142 of this chapter;

(5) Single-family dwelling; and

(6) Two-family dwelling.

(2002 Code, § 90-422)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in a B-3 District: accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions; provided that, they shall be in conformance with the provisions of § 152.132 of this chapter.

(2002 Code, § 90-423)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in a B-3 District:

- (1) Auto sales and services, including open air display of new or used cars;
- (2) Bowling alleys;
- (3) Child care centers;

(4) Child care homes;

(5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations and/or elevated pressure tanks;

(6) On-premises laundry and cleaning;

(7) Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;

(8) Planned unit developments;

(9) Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private non-profit schools, churches, parsonages and other religious institutions, parks and playgrounds;

(10) Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities;

(11) Private club or lodge;

(12) Service stations (gasoline), excluding automotive repair services not included in the definition of "service station" as provided in § 152.010 of this chapter; provided that, all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides;

(13) Miniwarehouses;

(14) Manufactured homes for residential purposes, provided the home complies with all provisions of § 152.141 of this chapter; and

(15) Vehicle towing service.
(2002 Code, § 90-424)

(E) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulation shall apply as minimum requirements of all uses in the B-3 District.

(1) Where a site adjoins or is located across an alley from any residential district, a solid wall or fence, vine-covered open fence or compact evergreen hedge six feet in height shall be located on the property line common to such districts, except in a required front yard.

(2) Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six feet in height; provided that, no materials or equipment shall be stored to a height greater than that of the wall or fence.

(3) No less than five feet of a required yard adjoining a street shall be landscaped and permanently maintained.

(4) All businesses, services and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and off-street loading areas, gasoline service stations, outdoor dining areas, garden shops and electric distribution substations.

(5) All products produced on the site of any permitted use shall be sold primarily at retail on the site where produced.

(6) No use shall be permitted and no process, equipment or materials shall be used which are found by the Council to be objectionable to the person living or working in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse water carried waste, noise, vibrations, illumination, glare or unsightliness, or to involve any hazard of fire or explosion.

(7) (a) Any proposed usage otherwise permitted in the B-3 zone which requires, uses or proposes to construct or use a drive-up, drive-through or drive-in intended to provide customers in-vehicle access to a product or service shall be considered a use by exception.

(b) Together with the provisions of §§ 152.195 through 152.202 of this chapter, the Council shall consider whether sufficient vehicle stack or queue space is provided on site. In addition to the space at which the product or service is dispensed, at least three stack or queue spaces shall be provided, as a minimum. No stack or queue space is permitted to occupy public right-of-way.

(8) Storage of towed vehicles:

(a) Wrecked vehicles shall only be stored pending settlement or legal disposition of vehicles by insurance carrier and/or owner.

(b) All wrecked vehicles shall be stored behind the front building line.

(c) No demolition of any vehicles shall be allowed.

(d) All stored vehicles shall be owned by persons other than the towing service owner/operator and/or land owner.

(e) All wrecked vehicles shall be stored behind a solid barrier fence of sufficient height to disallow visibility. Height of fence to be set by Planning Commission at the public hearing.

(f) No more than six wrecked vehicles may be stored at any one time.

(g) Use by exception shall only be effective upon compliance to all conditions as set forth by the City Council and verified by the Zoning Administrator.
(2002 Code, § 90-425)

(F) *Prohibited uses and structures.* All other uses and structures which are not specifically

permitted or not permissible as exceptions shall be prohibited from the B-3 District.
(2002 Code, § 90-426)

(G) *Minimum lot requirements.* There are no lot limitations in a B-3 District.
(2002 Code, § 90-427)

(H) *Minimum yard requirements.*

(1) *Front yard.*

(a) In a B-3 District, there shall be a minimum front yard of not less than a depth of 80 feet from the centerline of a federal aid-primary designated street or highway or 15 feet from the property line, whichever is greater.

(b) On all other streets or highways, there shall be a minimum front yard of not less than a depth of 15 feet from the property line.

(c) These yard requirements shall apply to any yard abutting a federal aid-primary designated street or highway regardless of the lot being an interior or corner lot.

(2) *Rear yard.* The minimum rear yard abutting an R District shall be ten feet.

(3) *Side yard.* The minimum side yard abutting an R District shall be ten feet.

(4) *Distance between structures.* The minimum distance between a residential or other principal structure and another structure shall be ten feet.
(2002 Code, § 90-428)

(I) *Maximum height.* No structure in a B-3 District shall exceed 25 feet in height, subject to the provisions and in conformance with airport zoning regulations.
(2002 Code, § 90-429)

(J) *Sign regulations.* All signs in a B-3 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-430)

(K) *Parking regulations.* Parking in a B-3 District shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-431)
(Ord. 93-11, passed 9-28-1993; Ord. 97-1, passed 2-11-1997; Ord. 2004-15, passed 12-14-2004; Ord. 2010-27, passed 10-5-2010; Ord. 2010-28, passed 10-19-2010; Ord. 2011-25, passed 11-15-2011; Ord. 2011-26, passed 11-15-2011)

INDUSTRIAL AND MANUFACTURING DISTRICTS

§ 152.095 GENERALLY; INDUSTRIAL ZONES.

The industrial zones are intended to achieve the following purposes: to reserve appropriately located areas for various types of industrial plants and related activities; to protect areas appropriate for industrial use from intrusion by residences and other inharmonious uses; to protect residential and commercial properties and to protect nuisance free non-hazardous industrial uses; to provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationship to each other; to provide adequate space to meet the needs of modern industrial development, including off-street parking and truck loading areas; and to provide industrial employment opportunities for residents of the city.

(2002 Code, § 90-461) (Ord. 93-11, passed 9-28-1993)

§ 152.096 I-1 LIGHT INDUSTRIAL AND MANUFACTURING DISTRICT.

(A) *Intent.* The intent of the I-1 District is to provide space for certain commercial and a wide range of industrial uses and structures which are unable to meet certain performance standards to protect nearby non-commercial and non-industrial uses from undesirable environmental conditions. Residential and other similar uses are prohibited from this district in order to limit environmental effects associated with certain commercial and industrial uses, irrespective of their meeting performance standards.

(2002 Code, § 90-481)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an I-1 District:

- (1) Agriculture, excluding the development or expansion of existing first, second or third class feedlots;
- (2) Animal hospitals;
- (3) Automobile sales and services;
- (4) Automotive wash facilities;
- (5) Bottling works;
- (6) Building material sales, except for ready-mix concrete plants and similar uses which emit particulate, odor or smoke;
- (7) Carpenter, cabinet, plumbing or sheet metal shops;
- (8) Carpet and rug cleaning and repair services;
- (9) Disinfecting and exterminating services;
- (10) Dry cleaning, laundering and dyeing services;

- (11) Dyeing and finishing of textiles;
- (12) Educational and scientific research services;
- (13) Electrical sales and services;
- (14) Equipment rental and leasing services;
- (15) Farm machinery and equipment - retail;
- (16) Farm supplies - retail;
- (17) Feeds, grains and hay - retail;
- (18) Food lockers and storage services;
- (19) Freight forwarding services;
- (20) Furniture repair and reupholstering services;
- (21) Fur repair and storage services;
- (22) Garden centers and nurseries;
- (23) Gas utility maintenance yard;
- (24) Light manufacturing operation; provided, such use complies with the performance standards set forth in § 152.143 of this chapter;
- (25) Landscape sales and services;
- (26) Mobile and modular home sales and manufacturing;
- (27) Newspaper publishing plants and commercial printing;
- (28) Photoengraving;
- (29) Photofinishing services;
- (30) Public and quasi-public uses of an educational, recreational or religious type, including public and parochial elementary schools and junior high schools, high schools, private non-profit schools, churches, parsonages and other religious institutions, parks and playgrounds;
- (31) Public utility and public service uses;
- (32) Repair of electronics;

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(33) Recycling centers;

(34) Service stations;

(35) Stores or shops for the sale of industry goods at retail;

(36) Telemarketing;

(37) Telephone services;

(38) Transportation warehousing;

(39) Wash services;

(40) Veterinarian services;

(41) Warehousing, storage and wholesale establishments except for products of a highly explosive, combustible or volatile nature;

(42) Wholesale establishments, except those which handle products of a highly explosive, combustible or volatile nature;

(43) Miniwarehouses;

(44) (a) Adult media outlet, providing that these establishments are not located nearer than 500 feet of the following:

1. A church, synagogue, mosque, temple or any other building which is used primarily for religious purposes and activities;

2. A public or private educational facility including, but not limited to, child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle or high schools, vocational schools, secondary schools, junior colleges, community colleges, universities, and shall include the school grounds of the above identified schools;

3. Any park, children's playground area or youth sports complex including activity center;

4. A property line of any lot devoted to a residential use;

5. A hospital;

6. A senior citizen center;

7. A public library;

8. Any building owned and/or used by a political subdivision;

9. In addition no adult oriented business of any type shall be located any closer than 1,000 feet of any other adult oriented business; and

10. No sexually explicit information, or images depicting nudity or partial nudity, shall be displayed exterior of a premises for the purpose of advertising or other notice to the public.

(b) For purposes of the above, 500 feet shall be measured in a straight line, along the pedestrian way, the shortest walking distance from the front or main door of the adult business to the front or main door of the use or uses identified in divisions (B)(44)(a)1. through (B)(44)(a)7. above. One thousand feet shall be measured in a straight line regardless of surface obstructions.

(45) (a) Adult sex shop; providing that, these establishments are not located nearer than 500 feet of the following:

1. A church, synagogue, mosque, temple or any other building which is used primarily for religious purposes and activities;

2. A public or private educational facility, including, but not limited to, child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities and shall include the school grounds of the above identified schools;

3. Any park, children's playground area or youth sports complex including activity center;

4. A property line of any lot devoted to a residential use;

5. A hospital;

6. A senior citizens center;

7. A public library;

8. Any building owned and/or used by a political subdivision;

9. In addition, no adult oriented business of any type shall be located any closer than 1,000 feet of any other adult oriented business; and

10. No sexually explicit information, or images depicting nudity or partial nudity, shall be displayed exterior of a premises for the purpose of advertising or other notice to the public.

(b) For the purposes of the above, 500 feet shall be measured in a straight line, along the pedestrian way, the shortest walking distance from the front or main doors of the adult business to the front or main door of the use or uses identified in divisions (B)(45)(a)1. through (B)(45)(a)8. above.

One thousand feet shall be measured in a straight line regardless of surface obstructions.
(2002 Code, § 90-482)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in an I-1 District:

(1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;

(2) Offices, retail stores and watchman's living quarters incidental to and on the same site with an industrial use;

(3) Medical facilities accessory to an industrial use;

(4) Child care centers; and

(5) Manufactured homes for residential purposes; provided, the home complies with all provisions of § 152.140 of this chapter.
(2002 Code, § 90-483)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an I-1 District:

(1) Repair garages, automobile service stations and major body repair, but not including the dismantling or wrecking of vehicles or the storage of damaged or inoperable vehicles;

(2) Kennels;

(3) Bulk petroleum storage, wholesale; and

(4) (a) Adult oriented business providing on-site entertainment; providing that, these establishments are not located nearer than 1,000 feet of the following:

1. A church, synagogue, mosque, temple or any other building which is used primarily for religious purposes and activities;

2. A public or private educational facility including, but not limited to, child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities and shall include the school grounds of the above identified schools;

3. Any park, children's playground area or youth sports complex including activity center;

4. A property line of any lot devoted to a residential use;

5. A hospital;
6. A senior citizens center;
7. A public library;
8. Any building owned and/or used by a political subdivision;

9. In addition, no adult oriented business of any type shall be located any closer than 1,000 feet of any other adult oriented business; and

10. No sexually explicit information, or images depicting nudity or partial nudity, shall be displayed exterior of a premises for the purpose of advertising or other notice to the public.

(b) For purposes of the above, 1,000 feet shall be measured in a straight line, along the pedestrian way, the shortest walking distance from the front or main door of the adult business to the front or main door of the use or uses identified in divisions (D)(4)(a)1. through (D)(4)(a)8. above. One thousand feet shall be measured in a straight line regardless of surface obstructions.
(2002 Code, § 90-484)

(E) *Conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall apply as minimum requirements for granting exceptions in the I-1 District:

(1) All uses shall meet or exceed the performance standards set forth in § 152.143 of this chapter;

(2) A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from a residential use, shall be screened by a solid wall or fence, vine-covered open fence or compact evergreen hedge, not less than six feet in height, if found by the Board of Adjustment to be unsightly;

(3) Where a site adjoins a residential use, a solid wall or fence, vine-covered open fence or compact evergreen hedge, six feet in height, shall be located on the property line except in a required front yard;

(4) Open storage of materials and equipment shall be permitted only within an area surrounded and screened by a solid wall or fence or compact evergreen hedge (with solid gates where necessary), not less than six feet in height; provided that, no materials shall be stored to a height greater than that of the wall, fence or hedge;

(5) The storage above ground or below ground of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot of less than one acre in area, nor shall storage exceed more than 25,000 gallons in one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall not be located closer than 50 feet from any structure intended for human habitation or closer than 200 feet from any residential or business district;

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(6) All open and unlandscaped portions of any lot shall be maintained in good condition, free from weeds, dust, trash and debris;

(7) Conditions set forth in divisions (D)(4)(a)1. through (D)(4)(a)9. above;

(8) Fence: six-foot high solid; and

(9) Lighting: enough light as to not cause a shadow in color either grey or black.
(2002 Code, § 90-485)

(F) *Prohibited uses and structures.* In an I-1 District, all residential dwellings of any kind, and all other uses and structures which are not specifically permitted, cannot meet the performance standards for industry set forth in § 152.143 of this chapter, or which are not permissible as exceptions shall be prohibited.

(2002 Code, § 90-486)

(G) *Minimum area requirements.* Minimum area requirements in an I-1 District are as follows:

<i>Minimum Area Regulations</i>	<i>Permitted Uses</i>
Height	45 feet, subject to the airport zoning regulations
Lot area	None
Lot width	None
Required front yard	25 feet
Required rear yard	0 feet, 25 feet when abutting a residential use
Required side yard	0 feet, 10 feet when abutting a residential use

(2002 Code, § 90-487)

(H) *Sign regulations.* All signs in an I-1 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.

(2002 Code, § 90-488)

(I) *Parking regulations.* Parking in an I-1 District shall be in conformance with the provisions of § 152.139 of this chapter.

(2002 Code, § 90-489)

(J) *Landscaping/screening.* A solid or semi-solid fence or wall at least six feet, but not more than eight feet high or a ten-foot landscape buffer consisting of trees, shrubs and evergreens shall be provided in an I-1 District adjacent to any adjoining residential district; however, if the adjacent residential uses and the Industrial District are separated by a street right-of-way, such fence, wall or landscape buffer shall not be required. All fences, walls or buffers shall be maintained by the owner of property in the I-1 District. The finished appearance of the fence shall face the residential use or district.

(2002 Code, § 90-490)

(Ord. 93-11, passed 9-28-1993; Ord. 97-1, passed 2-11-1997; Ord. 2005-8, passed 4-1-2005)

§ 152.097 I-2 HEAVY INDUSTRIAL AND MANUFACTURING DISTRICT.

(A) *Intent.* The intent of the I-2 District is to provide space for the widest range of industrial operations permitted in the city, for those industrial uses which are able to meet certain performance standards to protect nearby non-commercial and non-industrial uses from desirable environmental conditions. Residential and other similar uses are prohibited from this district in order to limit environmental effects associated with certain commercial and industrial uses, irrespective of their meeting performance standards.

(2002 Code, § 90-511)

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Alfalfa dehydrating mills;
- (2) Agriculture, excluding the expansion of existing or development of new feedlots;
- (3) Animal care and hospitals;
- (4) Automobile and truck sales and service;
- (5) Blacksmithing and welding shops;
- (6) Bottling water;
- (7) Building materials, storage and sales;
- (8) Carpenter, cabinet, plumbing and sheetmetal shops;
- (9) Cold storage plants;
- (10) Construction sales and services;
- (11) Disinfecting and exterminating services;
- (12) Dyeing and finishing of textiles;
- (13) Electrical sales and services;
- (14) Farm machinery sales, service and storage;
- (15) Feed and seed stores;
- (16) Food processing;

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- (17) Foundries;
- (18) Freight and truck services;
- (19) Frozen food lockers;
- (20) Furniture repair and reupholstering services;
- (21) Fur repair and storage services;
- (22) Gas and petroleum field services;
- (23) Gas utility maintenance yard;
- (24) Grain elevator;
- (25) Harvesting services;
- (26) Irrigation equipment sales and manufacture;
- (27) Kennels - boarding and breeding;
- (28) Landscape sales and services;
- (29) Livestock auction or sales barn;
- (30) Machinery sales and storage lots;
- (31) Manufacturing operations;
- (32) Mobile and modular home sales and manufacturing;
- (33) Newspaper publishing plants and commercial printing;
- (34) Outdoor advertising services;
- (35) Photo finishing and engraving services;
- (36) Public and quasi-public uses of an educational, recreational or religious type, including public and parochial elementary schools and junior high schools, high schools, private non-profit schools, churches, parsonages and other religious institutions, parks and playgrounds;
- (37) Public utility and public service uses, and detention-type facilities including jails and centers;
- (38) Radios, televisions, phonographs, recorders, tape players and other similar devices;

- (39) Railroad equipment maintenance yards;
 - (40) Railroad freight terminals;
 - (41) Railroad passenger terminals;
 - (42) Railroad switching yards;
 - (43) Recycling centers;
 - (44) Road maintenance yards;
 - (45) Seed cleaning and processing;
 - (46) Service stations;
 - (47) Stores or shops for the sale of industrial goods at retail;
 - (48) Storage yards;
 - (49) Telephone services;
 - (50) Transportation warehousing;
 - (51) Truck wash services;
 - (52) Veterinarian services;
 - (53) Warehouses or storage houses;
 - (54) Water well, drilling services; and
 - (55) Wholesale sales and services.
- (2002 Code, § 90-512)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in an I-2 District:

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;
- (2) Offices, retail stores and watchman's living quarters incidental to and on the same site with an industrial use;
- (3) Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of byproducts of slaughtering and killing animals or poultry; and

(4) Child care centers.
(2002 Code, § 90-513)

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in an I-2 District:

- (1) Motor vehicle body shop;
- (2) Motor vehicle repair service;
- (3) Motor vehicle storage yards;
- (4) Salvage yards;
- (5) Agricultural chemicals manufacturing;
- (6) Animal rendering;
- (7) Bulk petroleum storage wholesale;
- (8) Explosives - manufacturing;
- (9) Grain elevators;
- (10) Gravel, stone and sand quarrying;
- (11) Industrial waste disposals;
- (12) Livestock - wholesale;
- (13) Meat packing plants;
- (14) Petroleum and natural gas refining and processing;
- (15) Refuse incineration;
- (16) Ready-mix concrete and asphalt mix plants;
- (17) Solid waste transfer stations;
- (18) Stockyards and slaughterhouses; and
- (19) Storage of bulk oil, gas and explosives.
(2002 Code, § 90-514)

(E) *Conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through

152.202 of this chapter, the following regulations shall apply as minimum requirements for granting exceptions in the I-2 District.

(1) Where a site adjoins a residential district, a solid wall or fence, vine-covered open fence or compact evergreen hedge six feet in height shall be located on the property line except in a required front yard.

(2) A use not conducted entirely within a completely enclosed structure and on a site across a street or alley from a residential district shall be screened by a solid wall or fence, vine-covered open fence or compact evergreen hedge, not less than six feet in height, if found by the Board of Adjustment to be unsightly.

(3) Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall not be located closer than 50 feet from any structure intended for human habitation or closer than 200 feet from any residential or business district.
(2002 Code, § 90-515)

(F) *Prohibited uses and structures.* All residential dwellings of any kind, and all other uses and structures which are not specifically permitted or which are not permissible as exceptions, shall be prohibited in an I-2 District.
(2002 Code, § 90-516)

(G) *Minimum area requirements.* Minimum area requirements in an I-2 District are as follows:

<i>Minimum Area Regulations</i>	
Height	80 feet, subject to the airport zoning regulations
Lot area	None
Lot width	25 feet
Required front yard	0 feet, 25 feet when abutting a residential use
Required rear yard	0 feet, 10 feet when abutting a residential use

(2002 Code, § 90-517)

(H) *Sign regulations.* All signs in an I-2 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.
(2002 Code, § 90-518)

(I) *Parking regulations.* Parking in an I-2 District shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-519)
(Ord. 93-11, passed 9-28-1993; Ord. 96-6, passed 4-9-1996)

SPECIAL, MODIFIED AND APPENDED DISTRICTS**§ 152.110 PURPOSE AND INTENT.**

(A) These district regulations are intended to provide specific conditions for uses and structures which would otherwise not be included in the district regulations of §§ 152.045 through 152.047, 152.060 through 152.065, 152.080 through 152.082 and 152.095 through 152.097 of this chapter.

(B) These districts are indicated on the official zoning map. The district regulations would, therefore, include the district regulations for the parent zoning districts and the text of the appended district regulations.

(C) The special zoning districts provided in this subchapter are also intended for use in special cases where the zoning regulations are to be amended to accommodate particular planned development. (2002 Code, § 90-551) (Ord. 93-11, passed 9-28-1993)

§ 152.111 SFP FLOODPLAIN DISTRICT.

(A) *Statutory authorization, findings of fact and purposes.*

(1) *Statutory authorization.* The legislature of the state has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The legislature, in Neb. RS 31-1001 to 31-1022 (as amended), has further assigned the responsibility to adopt, administer and enforce floodplain management regulations to the county, city, or village with zoning jurisdictions over the flood-prone area. Therefore, the city ordains as follows.

(2) *Findings of fact.*

(a) *Flood losses resulting from periodic inundation.* The flood hazard areas of the city are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

(b) *General causes of the flood losses.* These flood losses are caused by:

1. The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities; and

2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

(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 such flood factors as its expected frequency of occurrence, the area inundated and the depth of the 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 one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated 3-30-2006 (preliminary) as amended and effective date not yet determined by FEMA;

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 one foot at any point; and

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

(3) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described herein by applying the provisions of this section to:

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

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

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

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

(B) *General provisions.*

(1) *Lands to which section applies.* This section shall apply to all lands within the jurisdiction of the city identified on the Flood Insurance Rate Map (FIRM) dated 3-30-2006 (preliminary) and effective date not yet determined by FEMA, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within Zoning Districts FW and FF established herein. In all areas covered by this section no development shall be permitted, except upon the issuance of a floodplain permit to develop, granted by the city or its duly designated representative under such safeguards and restrictions as the city or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted herein.

(2) *The Enforcement Officer.* The Zoning Administrator/Chief Building Official of the community is hereby designated as the community's duly designated Enforcement Officer under this

section.

(3) *Rules for interpretation of district boundaries.* The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment (Appeal Board) will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board of Adjustment and to submit his or her own technical evidence, if he or she so desires.

(4) *Compliance.* Within identified special flood hazard areas of the community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this section and other applicable regulations.

(5) *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 section imposes greater restrictions, the provision of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

(6) *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 governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(7) *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 human-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This section shall not create liability on the part of the city 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.

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

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

(C) *Development permit.*

(1) *Permit required.* No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined herein.

(2) *Administration.*

(a) The Zoning Administrator/Chief Building Official is hereby appointed to administer and implement the provisions of this section.

(b) Duties of the Zoning Administrator/Chief Building Official shall include, but not be limited to:

1. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this section have been satisfied;

2. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;

4. Notify adjacent communities and the State Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;

6. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas;

7. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed; and

8. When floodproofing is utilized for a particular structure the Zoning Administrator/Chief Building Official shall be presented certification from a registered professional engineer or architect.

(3) *Application for permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

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(a) Identify and describe the development to be covered by the floodplain development permit;

(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;

(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 such authority; and

(f) Give such other information as reasonably may be required by the Zoning Administrator/Chief Building Official.

(D) *Establishment of zoning districts.* Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: a floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study and accompanying map(s). Within these districts all uses not meeting the standards of this section and those standards of the underlying zoning district shall be prohibited.

(E) *Standards of floodplain development.*

(1) No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO and AH zones) unless the conditions of this section are satisfied.

(2) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions hereof. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.

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

(4) New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

(a) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(b) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination;

(c) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and 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; and

(d) All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

(5) Storage of material and equipment.

(a) 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.

(b) 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.

(6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:

(a) All such proposals are consistent with the need to minimize flood damage;

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage;

(c) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(d) Proposals for development (including proposals for manufactured home parks and subdivision) of five acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

(F) *Flood Fringe Overlay District (including AO and AH Zones).*

(1) *Permitted uses.* Any use permitted herein shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards hereof are met.

(2) *Standards for the Flood Fringe Overlay District.*

(a) Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation;

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(b) Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that 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 architect shall certify that the standards of this division (F)(2)(b) are satisfied. Such certification shall be provided to the Zoning Administrator/Chief Building Official as set forth herein;

(c) 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 two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one 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;

(d) Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures;

(e) Manufactured homes:

1. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with local Building Codes or FEMA guidelines. In the event that over-the-top 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 four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;

b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four 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 the manufactured home be similarly anchored.

2. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions hereof.

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community’s FIRM that are not subject to the provisions hereof be elevated so that either:

a. The lowest floor of the manufactured home is at or above one 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 hereof.

(f) 1. Recreational vehicles placed on sites within the special flood hazard areas on the community’s official map shall either:

a. Be on the site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use; or

c. Meet the permit requirements and the elevation and anchoring requirements for “manufactured homes” of this section.

2. 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.

(g) Located within the areas of special flood hazard established herein are areas designated as AO Zones. These areas have special flood hazard associated with base flood depths of three to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones.

1. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified).

2. All new construction and substantial improvements of non-residential structures

shall:

a. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level 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. Such certification shall be provided to the official as set forth herein.

3. Adequate drainage paths around structures on slopes shall be required in order to guide flood waters around and away from proposed structure.

(h) Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily moveable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood; and, provided that, no utilities are installed in the structure except elevated or flood proofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

(G) Floodway Overlay District.

(1) *Permitted uses.* Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:

(a) Agricultural uses such as general farming, pasture, nurseries, forestry;

(b) Residential uses such as lawns, gardens, parking and play areas;

(c) Non-residential uses such as loading areas, parking and airport landing strips; and

(d) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

(2) *Standards for the Floodway Overlay District.* New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall 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 hereof. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or this section, in meeting the standards of this section.

(H) Variance procedures.

(1) *Variance procedures.*

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

(b) 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/Chief Building Official in the enforcement or administration of this section.

(c) Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Neb. RS 23-168 (for counties); Neb. RS 19-912 (for municipalities).

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

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity of the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles:
 - a. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - b. 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.

(2) *Conditions for variances.*

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required 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 not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.

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

(e) Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(f) This application shall be given a written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
2. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this section.

(I) *Non-conforming use.*

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

(a) If such 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/Chief Building Official in writing of instances of non-conforming uses where utility services have been discontinued for a period of three months.

(b) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as non-conforming uses.

(2) If any non-conforming 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 if that 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 a structure listed on the National Register of Historic Places or a State Inventory of Historic Places; provided that, the alteration shall not preclude its continued designation.

(J) *Amendments.* The regulations, restrictions and boundaries set forth in this section may from time to time be amended, supplemented, changed or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973; provided, however, that, no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation on the city. At least 15 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. 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 Flood Plain Management Act.

(K) *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/Chief Building Official's interpretation of any provision of this section or a request for a variance.

APPURTENANT STRUCTURE. A structure on the same parcel of property as the principal structure, the use of which is identical to the use of the principal structure.

AREA OF SHALLOW FLOODING. A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. 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 human-made 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 CONSTRUCTION. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before 1-1-1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING 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 complete before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN 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 or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates 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.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source. (See definition of “flooding”.)

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

FREEBOARD. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. **FREEBOARD** tends to compensate for the many unknown factors that could

contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings and the hydrological effect on urbanization of the watershed.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or
2. Directly by the Secretary of the Interior in states without approved programs.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured

homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

OVERLAY DISTRICT. A district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

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;
- (b) Four hundred square feet or less when measured at the largest horizontal projections;
- (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 temporary living quarters for recreational, camping, travel or seasonal use.

SPECIAL FLOOD HAZARD AREA. The land in the floodplain 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 Barrier Resources Act (Pub. Law 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 the “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

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

VARIANCES. A grant of relief to a person from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in necessary hardship.

VIOLATION. A failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.
(2002 Code, § 90-571)

(L) *Permitted principal uses and structures.* Any permitted principal use and structure in the parent district to which the SFP District is made a part is permitted, provided such uses and structures meet the minimum requirements of division (O) below.
(2002 Code, § 90-572)

(M) *Permitted accessory uses and structures.* Any permitted accessory use and structure in the parent district to which this district is made a part is permitted; provided, such uses and structures meet the minimum requirements of division (O) below.
(2002 Code, § 90-573)

(N) *Exceptions.* After the provisions of this chapter relating to exceptions have been fulfilled, the City Planning Commission may permit all conditional uses permitted as exceptions in the parent district of which the SFP District is made a part.
(2002 Code, § 90-574)

(O) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall supplement the special conditions and/or conditions for granting exceptions which are provided in the parent district of which the SFP District is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations.

(1) Where by reason of flooding potential the Zoning Administrator determines that there are detrimental or limiting conditions for development or where there is indicated the possibility of detrimental or limiting conditions for development, the Zoning Administrator shall require such persons making application for a building permit to provide four copies of the following to the City Planning Commission:

(a) A site plan at an appropriate scale indicating:

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1. The name and address of the applicant;
2. Lot dimensions and legal description of the property;
3. The location, elevation, size, height and proposed use of all structures;
4. Yards and space between structures;
5. Off-street parking;
6. Location of public streets and highways and points of pedestrian and vehicular ingress and egress;
7. Signs; and
8. Areas which will require significant land forming.

(b) Topographic information providing the elevations of the site above mean sea level, the proposed first floor elevations of all principal structures and accessory structures, and all specifications for grading and fill.

(2) The Zoning Administrator shall transmit one copy of all required documentation to the natural resource district for review and comment. Such review and comment, if any, shall be made a part of the record of the City Planning Commission.

(3) As conditions for granting a building permit, the Board of Adjustment may require specific measures which are intended to minimize the hazard due to flooding and which shall include the following.

(a) The first floors of buildings or structures shall be placed one foot above the elevation of the 100-year flood.

(b) Foundations of all structures shall be designed and constructed to withstand flood conditions at the proposed construction site.

(c) Basements, lower floors or appurtenances located below the elevation of the 100-year flood shall be designed and constructed to prevent passage of water into the building or structure and to withstand flood conditions, including hydrostatic pressures of elevated water tables and the momentum of flood flows. Materials for construction shall be of a type not deteriorated appreciably by water. Windows, doorways and other openings into the building or structure that are located below the elevation of the 100-year flood shall be designed and constructed incorporating adequate floodproofing.

(d) All electrical equipment, circuits and installed electric appliances shall be located so as to not be subject to flooding or shall be floodproofed to prevent damage resulting from inundation from the 100-year flood.

(e) Sanitary and storm sewer drains shall be equipped with valves capable of being

closed, manually or automatically, to prevent backup of sewage and storm waters into the building or structure. Gravity draining of basements may be eliminated by mechanical devices.

(f) Any chemical storage, explosive, buoyant and flammable liquid storage shall be located above the 100-year flood level or shall be adequately floodproofed to prevent flotation of tanks or other appreciable damage or escape into the floodwaters of toxic materials.

(g) Land may be filled provided such fill extends 15 feet beyond the limits of any building or structure erected on the land.
(2002 Code, § 90-575)

(P) *Prohibited uses and structures.* All uses prohibited in the parent district of which the SFP District is made a part shall be prohibited.
(2002 Code, § 90-576)

(Q) *Minimum lot requirements.* The lot requirements of the parent district for which the SFP District is made a part shall be the minimum lot requirements subject to additional requirements as prescribed by the City Planning Commission.
(2002 Code, § 90-577)

(R) *Minimum yard requirements.* The yard requirements of the parent district of which the SFP District is made a part shall be the minimum yard requirements subject to additional requirements as prescribed by the City Planning Commission.
(2002 Code, § 90-578)

(S) *Maximum lot coverage.* The lot coverage requirements of the parent district of which the SFP District is made a part shall be the maximum lot coverage requirements subject to additional requirements as prescribed by the City Planning Commission.

(T) *Maximum height.* The height requirements of the parent district of which the SFP District is made a part shall be the maximum height requirements subject to additional requirements as prescribed by the City Planning Commission.
(2002 Code, § 90-580)

(U) *Sign regulations.* The sign regulations of the parent district of which the SFP District is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Planning Commission.
(2002 Code, § 90-581)

(V) *Parking regulations.* Parking shall be in conformance with the provisions of § 152.139 of this chapter.
(2002 Code, § 90-582)
(Ord. 93-11, passed 9-28-1993; Ord. 2008-3, passed 1-15-2008)

§ 152.112 SAH AIRPORT HAZARD DISTRICT.

(A) *Intent.* The SAH District is intended for those areas which are within the Airport Hazard Area as defined by the State Department of Aeronautics, such area being defined on the official airport zoning map entitled "Wayne Airport Zoning Regulations".
(2002 Code, § 90-601)

(B) *Permitted principal uses and structures.* Any permitted principal use and structure in the parent district to which the SAH District is made a part shall be permitted subject to the provisions of division (E) below.
(2002 Code, § 90-602)

(C) *Permitted accessory uses and structures.* Accessory uses and structures permitted under the provisions of the regulations of the parent district and those normally appurtenant to the uses and structures permitted as exceptions shall be permitted in the SAH District, subject to the provisions of division (E) below.
(2002 Code, § 90-603)

(D) *Exceptions.* After the provisions of this chapter relating to exceptions have been fulfilled, the City Planning Commission may permit all conditional uses permitted as exceptions in the parent district of which the SAH District is made a part, subject to the provisions of division (E) below.
(2002 Code, § 90-604)

(E) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall supplement the special conditions and/or conditions for granting exceptions which are provided in the parent district of which the SAH District is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations.

(1) The release into the air of any substance which would impair visibility, such as steam, dust and smoke, except from existing heating plants, incinerators and fireplaces shall be prohibited.

(2) Light emissions which interfere with or impair pilot vision shall be prohibited.

(3) Electrical emissions that interfere with aircraft communications systems or navigational equipment shall be prohibited.

(4) Dumping of garbage, maintenance of feeding stations or facilities attractive to birds which are a hazard to aircraft operation shall be prohibited.
(2002 Code, § 90-605)

(F) *Prohibited uses and structures.* All uses prohibited in the parent district of which the SAH District is made a part shall be prohibited.
(2002 Code, § 90-606)

(G) *Minimum lot requirements.* The lot requirements of the parent district of which the SAH District is made a part shall be the minimum lot requirements subject to additional requirements as prescribed by the City Planning Commission.
(2002 Code, § 90-607)

(H) *Minimum yard requirements.* The yard requirements of the parent district of which the SAH District is made a part shall be the minimum yard requirements subject to additional requirements as prescribed by the City Planning Commission.

(2002 Code, § 90-608)

(I) *Maximum lot coverage.* The lot coverage requirements of the parent district of which the SAH District is made a part shall be the maximum lot coverage requirements subject to additional requirements as prescribed by the City Planning Commission.

(2002 Code, § 90-609)

(J) *Maximum height.* The height requirements of the parent district of which the SAH District is made a part shall be the maximum height requirements subject to additional requirements as prescribed by the Council or Board of Adjustment and to the height limitations as specified as follows.

(1) No structure shall exceed the height limitations as defined in the city's airport zoning regulations.

(2) No natural growth shall be created, altered, allowed to grow or maintained which exceeds the height limitations as defined in the city's airport zoning regulations.

(2002 Code, § 90-610)

(K) *Sign regulations.* The sign regulations of the parent district of which the SAH District is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Planning Commission; provided that, no sign shall exceed the height limitations as defined in the city's airport zoning regulations.

(2002 Code, § 90-611)

(Ord. 93-11, passed 9-28-1993)

§ 152.113 PUD PLANNED UNIT DEVELOPMENT.

(A) *Intent.*

(1) The owner of any tract of land comprising an area of not less than two acres for residential development, two acres for a commercial development or ten acres for an industrial development located in any zoning district may submit a plan for the total development of the area in accordance with the following standards and requirements as a planned unit development.

(2) The Planned Unit Development (PUD) District is intended to permit private or public development or redevelopment of areas throughout the city which shall be substantially in accordance with goals and objectives of the Comprehensive Plan for the city. The proposed development shall provide a desirable environment and shall be harmonious with the general surrounding uses while permitting flexibility in overall development.

(2002 Code, § 90-641)

(B) *Purposes.* Some specific purposes of the planned development procedure are:

Wayne - Land Usage*(1) Residential planned development.*

- (a) To offer recreational opportunities close to residents;
- (b) To enhance the appearance of neighborhoods by the conservation of streams and local spots of natural beauty;
- (c) To add to the sense of spaciousness through the preservation of natural green spaces;
- (d) To counteract the effects of urban monotony and congestion in the streets;
- (e) To encourage cooperative relationships between neighbors and participation by all age groups in the use and care of local open space tracts in new residential subdivisions;
- (f) To promote harmonious architecture between adjacent dwellings or institutional buildings; and
- (g) To encourage the placement of structures in proper relationship to the natural characteristics of the site.

(2) Business planned development.

- (a) To promote the cooperative development of business centers, each with adequate off-street parking to control access points on thoroughfares;
- (b) To separate pedestrian and automobile traffic;
- (c) To aid in stabilizing property values;
- (d) To develop centers of size and location compatible with the market potential;
- (e) To buffer adjacent residential areas with landscaped green spaces; and
- (f) To encourage harmonious architecture between adjacent commercial structures and between homes and commercial structures.

(3) Industrial planned development.

- (a) To promote the establishment of industrial parks;
- (b) To permit groups of industrial buildings with integrated design and a coordinated physical plan;
- (c) To encourage recreational facilities within industrial areas; and
- (d) To buffer adjacent residential areas with landscaped green spaces.

(C) *Required information.* The developer shall be required to submit the following information and any other information that may be required by the Planning Commission:

(1) A site plan which shall be accurately, clearly and legibly drawn in sufficient size and scale to show the details of the plan clearly and which shall contain the following:

(a) Location, right-of-way, pavement width of all proposed and existing streets, private roadways and other public ways;

(b) Location and size of existing and proposed public utilities and easements;

(c) All lot lines, building setback lines and dimensions of all lot lines, setbacks and building envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

(d) Lot numbers beginning with the number 1 and continuing consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;

(e) Proposed areas for parks and playgrounds. Any parcels other than streets which are dedicated or reserved for public use shall be clearly shown, and such parcels shall be designated as outlots and assigned an alphabetical designation;

(f) The location of all proposed and existing sidewalks, walkways and other pedestrian ways;

(g) The location, floor area, number of dwelling units and height of proposed and existing buildings, with an indication as to whether an existing building is to be removed or to be retained;

(h) Vicinity map;

(i) Parking areas and capacity;

(j) Open spaces for residential uses and for required landscaping and screening;

(k) Use of buildings, such as retail, service, restaurant, office, residential, industrial and other uses;

(l) Conceptual landscape plan; and

(m) Location of proposed freestanding signs.

(2) A draft of any proposed incorporation agreement and a draft of any bylaws of easement declarations concerning maintenance of recreational and other common facilities;

(3) Accompanying the plans, the following shall be submitted:

- (a) Name, address and telephone number of the developer;
- (b) Certified record owners and their addresses; and
- (c) Legal description of the proposed planned unit development, including the number of acres.

(2002 Code, § 90-643)

(D) *Use exceptions.* The Planning Commission may authorize that there be in part of the area of such development specified uses not permitted by the use regulations of the district in which the development is located provided the Planning Commission shall find that:

(1) The uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose of the development;

(2) The uses permitted by such exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood; and

(3) Not more than 20% of the ground area of the gross floor of such development shall be devoted to the uses permitted by the exception.

(2002 Code, § 90-644)

(E) *Density regulations.* In the case of any planned development, the Planning Commission may authorize exceptions to the applicable density regulations of this chapter within the boundaries of such development, providing the Planning Commission shall find that:

(1) Such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development, as well as the neighboring property, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots;

(2) Along the periphery of such planned developments, yards shall be provided as required by the regulations of the district in which the development is located; and

(3) In a residential planned development, the maximum number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the district in which the area is located and increasing the resulting figure by 15%. Net development area shall be determined by subtracting the area set aside for non-residential uses from the gross development area and deducting 10% of the remainder for streets, regardless of the amount of land actually required for streets. The area of land set aside for common open space or recreational use may be included in determining the number of dwelling units permitted.

(2002 Code, § 90-645)

(F) *Designation of permanent common open space.*

(1) *Definition.* **PERMANENT COMMON OPEN SPACE** means parks, playgrounds

developed, vegetated and landscaped for open areas, ball fields, picnic areas, trails or similar facilities.

(2) *Designation.* No plan for a planned residential development shall be approved unless such plan provides for permanent common open space equivalent to 500 square feet per lot for all lots within the PUD. The minimum size shall be no less than one-half acre.

(3) *Improvement.* The common open space shall be developed within three years following the approval of the PUD.
(2002 Code, § 90-646)

(G) *Minimum lot area in residential planned developments.* Provided the overall number of dwelling units per acre (density) is not increased beyond the provisions of division (E) above, and provided the permanent common open space is in accord with division (F) above, the planned development may include minimum lot areas per dwelling unit which are less than required in the applicable zoning district.
(2002 Code, § 90-647)

(H) *Building permits.* No building permit shall be issued for any construction or use of a development which does not conform to the approved plans, terms and conditions of the planned unit development. No changes shall be made in the planned unit development, except by approval in the same procedure by which the original plan was approved. No planned unit development shall be approved until a public hearing is held in accordance with §§ 152.195 through 152.202 of this chapter.
(2002 Code, § 90-648)
(Ord. 93-11, passed 9-28-1993)

§ 152.114 BUILDING LINE DISTRICT.

(A) *Limitation on building.* On those streets and highways shown on the “Wayne Building Line District Map,” dated _____, which is adopted as a part of and incorporated by reference in this section, and as the map may be amended, no structure, sign, parking or required vehicle stacking shall be located, constructed or erected within an area designated as a building line district except as permitted under division (B) below. The Building Line District shall be measured from the street centerlines as they existed on the effective date of the amendment to this chapter.
(2002 Code, § 90-671)

(B) *Uses within building line districts; adjustments.*

(1) The Planning Commission may authorize the location or placement of accessory buildings and structures, not including main buildings or accessory buildings which are part of a main building, within a building line district; provided that, such location or placement otherwise meets the requirements of all applicable ordinances and codes. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a Building Line District; but the Planning Commission may allow such uses to encroach into the required yard line a distance equal to the width of the Building Line District, but in no event beyond the required yard. The applicant for such building or structure shall agree in writing that it shall be moved at the sole cost of the applicant whenever necessary for public use.

(2) Parking spaces, other than required parking, and signs may be located within a Building Line District and shall not require authorization by the Planning Commission if the applicable district regulations otherwise permit the location of such uses in the required yard. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a Building Line District, but may encroach into the required yard, measured from the yard line, a distance equal to the width of the Building Line District, but in no event beyond the required yard. Such parking spaces or signs shall comply with all other related applicable ordinances, codes and design standards. Signs authorized by this section shall be removed at the sole cost of the property owner whenever necessary for public use. In the case of parking authorized by this section, the property owner shall agree to reimburse the city for the costs of removal of the parking which exceed the costs the city would normally incur in the widening of such street without the existence of such parking spaces.

(3) The Planning Commission may modify the Building Line District along the frontage in a block to permit reasonable use of individual property; however, such a modification shall be granted only when the Planning Commission finds that the modification will not interfere with reasonably anticipated future right-of-way requirements. Prior to action by the Planning Commission, all property owners of the frontage in the block for which the modification is required shall be notified of such request by United States mail. This notice shall be in addition to and not in lieu of the notice requirements of §§ 152.195 through 152.202 of this chapter.

(4) For purposes of this section, the yard line and the required yard shall be measured from the Building Line District rather than the lot line or property line.

(2002 Code, § 90-672)

(Ord. 93-11, passed 9-28-1993)

§ 152.115 AFFORDABLE HOUSING PLANNED UNIT DEVELOPMENT.

(A) *Intent.*

(1) The owner of any tract of land comprising an area of not less than two acres for residential development, located in any zoning district may submit a plan for the total development of the area in accordance with the following standards and requirements as an AH-PUD (Affordable Housing Planned Unit Development).

(2) The AH-PUD (Affordable Housing Planned Unit Development) District is intended to permit private or public development or redevelopment of areas throughout the city which shall be substantially in accordance with goals and objectives of the Comprehensive Plan for the city. The proposed development shall provide a desirable environment and shall be harmonious with the general surrounding uses while permitting flexibility in overall development.

(2002 Code, § 90-681)

(B) *Purposes.* Some specific purposes of the planned development procedure are affordable home ownership residential planned development:

(1) To offer affordable home ownership opportunities for residents;

(2) To enhance the appearance of neighborhoods by the creation of urban forest and conservation of streams and local spots of natural beauty;

(3) To enhance the affordability of developed lots by development of infrastructure in phases and negotiated agreement with developer regarding reduction of utility and infrastructure cost to developer with commitment of developer on lot price, eligible buyers and limitation on combining of lots to build on;

(4) To make the most effective and efficient use of the public spaces and rights of way;

(5) To encourage cooperative relationships between neighbors and participation by all age groups in the use and care of local open space tracts in new residential subdivisions;

(6) To promote harmonious architecture between adjacent dwellings or institutional buildings; and

(7) To encourage the placement of structures in proper relationship with the natural characteristics of the site.
(2002 Code, § 90-682)

(C) *Required information.* The developer shall be required to submit the following information and any other information that may be required by the Planning Commission and City Council:

(1) A site plan which shall be accurately, clearly and legibly drawn in sufficient size and scale to show the details of the plan clearly and which shall contain the following:

(a) Location, right-of-way, grading and gravel plan and/or pavement width of all proposed and existing streets, private roadways and other public ways and a phased paving schedule to match development progress;

(b) Location and size of existing and proposed public utilities and easements and a schedule for phased installation of utilities and paved streets to match development;

(c) All lot lines, building setback lines, and dimensions of all lot lines, setbacks and building envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

(d) Lot numbers beginning with the number 1 and continuing consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;

(e) Proposed areas for parks and playgrounds. Any parcels other than streets which are dedicated or reserved for public use shall be clearly shown, and such parcels shall be designated as outlots and assigned an alphabetical designation;

(f) The location of all proposed and existing sidewalks, walkways and other pedestrian

ways;

(g) The location, floor area, number of dwelling units and height of proposed and existing buildings, with an indication as to whether an existing building is to be removed or to be retained;

(h) Vicinity map;

(i) Parking areas and capacity;

(j) Open spaces for residential uses and for required landscaping and screening;

(k) Use of buildings, such as retail, service, restaurant, office, residential, industrial and other uses;

(l) Conceptual landscape plan; and

(m) Location of proposed freestanding signs.

(2) A draft of any proposed incorporation agreement and a draft of any bylaws of easement declarations concerning maintenance of recreational and other common facilities;

(3) A draft agreement showing the proposed development plan, approved exceptions, utility extension cost allocation between city utility departments and the developer, the developer commitment for cost of lot and restriction of combining lots;

(4) A site plan showing finished grades and storm water run-off plan; and

(5) Accompanying the plans, the following shall be submitted:

(a) Name, address and telephone number of the developer;

(b) Certified record owners and their addresses; and

(c) Legal description of the proposed affordable housing planned unit development, including the number of acres.

(2002 Code, § 90-683)

(D) *Use exceptions.* The Planning Commission may authorize that there be in part of the area of such development specified uses not permitted by the use regulations of the district in which the development is located provided the Planning Commission shall find that:

(1) The uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose of the development;

(2) The uses permitted by such exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood; and

(3) Not more than 50% of the ground area of the AH-PUD or 20% of the gross building area of such development shall be devoted to the uses permitted by the exception. Exceptions may include covenants, offset of houses for future garage construction, substitution of the grant of one or more lots to Habitat for Humanity or other similar developer in lieu of park fee, gravel street construction until a predetermined portion of lots are built on, lot sizes, lot configuration, narrower right-of-way and/or paving width, alternative storm water control, rezoning and/or annexing small parcels and the like. (2002 Code, § 90-684)

(E) *Density regulations.* In the case of any planned development, the Planning Commission may authorize exceptions to the applicable density regulations of this chapter within the boundaries of such development, providing the Planning Commission shall find that:

(1) Such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development, as well as the neighboring property, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots;

(2) Along the periphery of such planned developments, yards shall be provided as required by the regulations of the district in which the development is located; and

(3) In an affordable housing residential planned development, the maximum number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the district in which the area is located and increasing the resulting figure by 25%. Net development area shall be determined by subtracting the area set aside for non-residential uses from the gross development area and deducting 10% of the remainder for streets, regardless of the amount of land actually required for streets. The area of land set aside for common open space or recreational use may be included in determining the number of dwelling units permitted. (2002 Code, § 90-685)

(F) *Minimum lot area in residential planned developments.* Provided, the overall number of dwelling units per acre (density) is not increased beyond the provisions of § 152.113(E) of this chapter; and, provided, the permanent common open space is in accord with § 152.113(F) of this chapter, the affordable housing planned development may include minimum lot areas per dwelling unit which are less than required in the applicable zoning district. (2002 Code, § 90-687)

(G) *Building permits.*

(1) No building permit shall be issued for any construction or use of a development which does not conform the approved plans, terms and conditions of the affordable housing planned unit development agreement.

(2) No changes shall be made in the planned unit development except by approval in the same procedure by which the original plan was approved.

(3) No planned unit development shall be approved until a public hearing is held in

accordance with §§ 152.195 through 152.202 of this chapter.
(2002 Code, § 90-688)

(H) *Sales of residential lots.* The sale price of the lots will be determined by agreement between the developer and the City Council.
(2002 Code, § 90-689)

(I) *Provision of utility extensions and infrastructure.* The allocation of installation cost and tax increment financing incentives, if applicable, for extension of sewer and water utilities will be a negotiated agreement between the city and the developer of the AH-PUD.
(2002 Code, § 90-690)
(Ord. 93-11, passed 9-28-1993; Ord. 2005-37, passed 12-20-2005)

SUPPLEMENTARY DISTRICT REGULATIONS

§ 152.130 VISIBILITY AT INTERSECTIONS; SIGHT TRIANGLE.

(A) On a corner lot in all districts, except B-2 District, continuous unobstructed sight distance shall be provided for safe traffic operations. No obstruction, including fences, hedges, walls, shrubbery or other human-made or natural obstructions, shall exist between a height of two and one-half and ten feet within the sight triangle.

(B) The following diagrams depict sight triangles in which obstructions are prohibited:

(1) *Local streets.* (75 feet from centerline of intersecting street)

(2) *Collector and arterial streets.* (90 feet from centerline of intersecting streets)

(2002 Code, § 90-701) (Ord. 93-11, passed 9-28-1993)

§ 152.131 FENCES AND SCREENS.

Except as otherwise specifically provided in this chapter and in other codes and regulations, the following regulations shall apply to the construction of fences and screening.

(A) No fence shall be constructed which will constitute a traffic hazard.

(B) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

(C) (1) Fences separating residential land uses shall not exceed six feet in height.

(2) Fences separating residential and non-residential land uses or between two non-residential land uses shall not exceed eight feet in height.

(D) No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than eight feet; however, the Board of Adjustment may, by granting a variance, authorize the construction of a fence higher than eight feet if the Board of Adjustment finds the public welfare is preserved.

(E) Where fences, screens or obstructions are constructed to obstruct view of obstacles such as garbage cans, air conditioners, open storage and similar uses, fences or screens shall not exceed the height specified for residential and non-residential areas; and, further, no such screen or fence shall be located in the front yard, or in the side yard, except the obstruction may be constructed in the side yards; providing, it is located between the rear property lines and the front building lines of the principal structure.

(2002 Code, § 90-702) (Ord. 93-11, passed 9-28-1993)

§ 152.132 ACCESSORY USES.

(A) *Use for dwelling.* Accessory buildings shall not be used for dwelling purposes unless specifically permitted.

(B) *Yard requirements for accessory buildings.*

(1) *Side yard.* Side yard requirements are the same as the district in which the accessory use is located, except an accessory building may be located in the side yard as close as three feet to the property line; providing, it is located between the rear building line of the principal building and the rear property line.

(2) *Front yard.* No accessory building shall be located between the front building line of the principal building and the front property line.

(3) *Rear yard.* Unless specifically permitted, no accessory building in a rear yard shall be located closer than three feet from the rear property line or within ten feet of any other building on adjacent properties; and no accessory building shall be located within any easement or right-of-way along the rear property line.

(C) *Vehicle access.* Unless otherwise specifically permitted, any accessory building requiring vehicle access perpendicular to the alley, shall be located a minimum of 20 feet from the rear property line/alley.

(D) *Attached accessory use.* Any accessory structure attached to the principal building shall be considered as a part of the principal building and shall meet the same requirements as specified for the principal building in the district.

(E) *Unattached accessory use.* Any unattached accessory building(s) in combination with the principal or primary structure, in any R designated zoning district, shall not exceed a combined area greater than 50% of the lot area, provided the combined total area of all unattached accessory structures

shall not exceed 1,064 square feet or 7% of the lot area up to 3,000 square feet, whichever is greater.

(F) *Siding, covering.* The exterior siding or covering of unattached accessory structures located in an R Zoning District shall be painted or of such material or siding as the principal or primary structure.

(G) *Structural projections.*

(1) Structural projections, including roofs which cover porches and chimneys and flues, buttresses eaves, overhangs, cantilever, open-unenclosed steps or stoops shall not extend more than three feet into any side, front or rear yard.

(2) Any porches enclosed with screens, windows, permanent construction or porches extending greater than three feet into the side, rear or front yard shall be considered as a part of the principal structure and meet the requirements of the principal structure.

(H) *Fire hazardous accessory use.* No accessory use shall be located within five feet of a residential dwelling that creates a fire hazard or would subject the residential structure to a potential fire, such as a detached fireplace, barbecue ovens, flammable liquid storage and the like.

(2002 Code, § 90-703) (Ord. 93-11, passed 9-28-1993; Ord. 2004-15, passed 12-14-2004; Ord. 2010-14, passed 7-12-2010)

§ 152.133 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In commercial and industrial districts, more than one structure housing a permitted or permissible use may be erected on a single lot; provided, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(2002 Code, § 90-704) (Ord. 93-11, passed 9-28-1993)

§ 152.134 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in this chapter shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys, elevator headhouses, fire towers, flagpoles, grain elevators and accessory agricultural structures, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. These exceptions shall not apply to any SAH Airport Hazard District.

(2002 Code, § 90-705) (Ord. 93-11, passed 9-28-1993)

§ 152.135 STRUCTURES TO HAVE ACCESS.

Every building erected or moved, with the exception of non-residential agricultural related structures in agricultural zoned districts, shall be on a lot adjacent to a public or approved private street; and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

(2002 Code, § 90-706) (Ord. 93-11, passed 9-28-1993)

§ 152.136 TEMPORARY STRUCTURES.

Temporary structures incidental to construction work, but only for the period of such work, are permitted in all districts.

(2002 Code, § 90-707) (Ord. 93-11, passed 9-28-1993)

§ 152.137 CARETAKER'S QUARTERS.

Caretaker's quarters are permitted in all districts if included in the principal structure providing the use is incidental to the principal use.

(2002 Code, § 90-708) (Ord. 93-11, passed 9-28-1993)

§ 152.138 ADJUSTMENTS TO FRONT YARD REQUIREMENTS.

Front yards heretofore established shall be adjusted in the following cases.

(A) Where 51% or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed, with a variation of five feet or less, a front yard greater in depth than required in this chapter, new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.

(B) Where 51% or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have not observed a front yard as described in division (A) above:

(1) Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings on the two sides; or

(2) Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

(2002 Code, § 90-709) (Ord. 93-11, passed 9-28-1993)

§ 152.139 PARKING REGULATIONS.

(A) *Parking, storage or use of recreational equipment.*

(1) All recreational equipment shall be parked behind the building line except for a period not to exceed 72 consecutive hours for purposes of loading and unloading. The building line of a residential dwelling on a corner lot fronts the street that the dwelling is addressed to. No recreational equipment shall be used for living, sleeping or housekeeping purposes in excess of 30 days in a 60-day period when parked or stored on a residential lot or on any location not approved for such use.

(2) Council may consider granting a waiver upon individual application for recreational equipment in parking spaces existing prior to the passage and approval of this section and based upon the parking surface and the distance from the street in connection with traffic hazards.

(B) *Minimum off-street parking and loading requirements.* Off-street motor vehicle parking and loading space shall be provided on any lot on which any of the indicated structures and uses are hereafter established. These requirements are thus only applicable to construction of a new structure (regardless of whether or not another building previously existed on the property), when a structure's use changes from one use (as listed in the schedule of minimum off-street parking and loading requirements in this chapter) to another, or to any existing multiple family structure to which an addition is constructed that results in more dwelling units than existed prior to the addition. Such space, as defined in § 152.010 of this chapter, shall be provided with vehicular access to a street or an alley. A required loading space shall include a ten-foot by 50-foot space with a minimum of 14 feet of height clearance. The loading space shall be so located as to avoid undue interference with public use of streets, alleys and walkways. Minimum off-street parking and loading requirements, which shall be applicable in all zoning districts to the structures and uses indicated, shall be set forth in the following schedule of minimum off-street parking and loading requirements. If minimum off-street parking required in the schedule cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the Board of Adjustment, the Board may permit such space to be provided on other off-street property, provided that such space lies within 400 feet of the entrance to such principal structure or use.

(C) *Parking or driveway surfaces.* This code section shall only apply within the corporate limits of the city. Parking or driveway surfaces on the city terrace or front yard interior of the lot in all residential zoning districts and all residential uses in all other zoning districts, except A-1 and A-2, shall be material other than dirt, grass or weeds. All residential type dwellings shall use no more than 50% of the front yard including terrace area for parking. All lots with more than one frontage (i.e., corner lots) shall conform to the above 50% requirement to be determined by front yard area as identified by street address. Existing hard surfaced parking areas exceeding 50% of the front yard area on 6-15-2006 shall be exempt from the 50% area limitation provided they comply herewith.

(1) *Terrace.*

(a) Parking or driveway surface shall only be on concrete or hot mix asphalt.

(b) Parking or driveway surface shall be a minimum of five and one-half inches thick and shall include the intersecting sidewalks to the same depth.

(c) Parking or driveway surface shall have the curb ground or sawed out the entire parking or drive-way width. Exception: when proposed parking is parallel to the curb and there are two approach or driveway curb inlet and outlet ramps.

(d) Parking surfaces located in the terrace shall be large enough and shall be required to have a parking barrier to prevent vehicles from overhanging the curb or sidewalk. The minimum size of a parking stall surface shall be an eight-foot by 20-foot rectangle.

(e) Terrace parking shall not interfere with the intersection site triangle of this code.

(f) Driveway surfaces shall include all of the terrace right-of-way from the street back of curb to the property line.

(g) Terrace parking and driveway surfaces shall be excavated a minimum of four inches deeper than the surrounding terrain or unpaved surface.

(h) Parking or driveway surfaces at the back of curb line shall be excavated to the same depth as the abutting street depth a minimum of 12 inches wide the entire width of the parking surface or driveway.

(i) Parking or driveway surfaces shall be placed on a minimum of two inches of compacted sand or gravel material.

(j) Proposed parking or driveway surface property owner shall first obtain a curb grind permit and/or driveway apron construction permit.

(2) *Interior of the lot.*

(a) Parking or drive surfaces interior of the property shall be material other than dirt, grass or weeds, as identified below:

1. Concrete;
2. Asphalt;
3. Bricks;
4. Concrete pavers;
5. Aggregate (but not pea gravel, road gravel, sand or other aggregates symmetrical or round in nature less than one and one-half inches in diameter);
6. Fractured concrete; and
7. Cinders.

(b) All of the above materials (except divisions (C)(2)(a) and (C)(2)(b) above) shall be contained within a suitable barrier of sufficient height (e.g., landscape timber, railroad ties, landscaping blocks, lumber, but excluding tires) that retain the material, and shall conform to the abutting surface topography, sufficiently anchored to resist movement, and must retain the parking surface material from spreading into the street, alleys or abutting vegetative areas.

(c) No weeds, grass or other vegetation shall be allowed within the defined area of parking or driveway surfaces.

(d) Entire parking or driveway surface shall be evenly surfaced or covered so that at no time is the underlying dirt visible.

(D) *Asphalt, concrete.* Any new single family type residential dwellings built after 6-15-2006 shall have all driveway areas and parking areas constructed of asphalt or concrete.

(E) *Curb ground, drive surface.* All driveway entries from the paved street shall have the curb ground or removed and a drive surface installed to the front property line.

(F) *Design standards for parking lots.*

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

NON-PERMANENT PARKING SURFACES. Any surface other than bare dirt, grass or weeds, but is aggregate in nature (i.e., crushed limestone, red granite, crushed concrete, slag or other material that cannot be displaced or easily moved by storm water run-off) and shall be conditionally approved for a specified time period by the Zoning Administrator.

PERMANENT PARKING SURFACES. Any of the four surfaces allowed in division (F)(4)(b) below.

(2) *Drainage.*

(a) All permanent parking lots shall be designed to develop proper site drainage. Proper site drainage is required to dispose of all storm water that is accumulated on the site.

(b) If a new permanent parking lot containing 6,000 square feet or more is located within 150 feet or reasonably accessible to a storm sewer or other drainageway, including open channels and creeks, but excluding gutters, the following standards shall apply:

1. The permanent parking lot must be graded and surfaced such that storm water runoff from the site is collected on the site by a parking lot drainage system and carried to an approved public storm sewer system, and not allowed to discharge through the driveway entrances and exits onto the public way. Proposed finish elevation of the parking lot must be indicated on appropriate plans; and

2. All parking lots shall be graded as to eliminate standing water on site to reduce or eliminate the silt run off from the lot onto the street or into the public storm water conveyance system. Non-permanent parking surfaces shall only be allowed that do not cause silt or other debris to travel onto the street or into the public storm water conveyance system, providing that no vegetation growth occurs interior of parking surfaces (i.e., weeds or other volunteer growth).

(3) *Parking barriers.*

(a) *Required.* Approved parking barriers must be provided around parking lots to prevent the parking of vehicles overhanging the sidewalk space, public alley or other public property and adjacent residential property. Approved barriers are also required as necessary to protect any required landscaping or landscape screen planting.

(b) *Approved barriers.* Approved barriers include the following type of barriers. Other barriers may be approved, subject to the approval of the city:

1. Poured concrete curb, nominal six inches by six inches exposed;
2. Fence (minimum 30-inch height), wire fabric, solid wood, post and rail;
3. Masonry or concrete wall (minimum 30-inch height);
4. Guard rail;
5. Post and cable; and
6. Precast concrete barriers, firmly and permanently anchored.

(c) *Location.* Barriers must be located to contain the parking within the approved parking lot. When a concrete curb is used as a barrier for perpendicular or angle parking, it must be offset at least two feet from the edge of the parking lot to allow for the front overhang of the vehicle. Other type barriers may be located at the edge of the parking lot.

(4) *Parking layout and markings.*

(a) The developer shall submit to the city for review and approval, a detailed and accurately scaled parking lot layout, clearly showing the location of parking spaces and aisles, all conforming to city standards. Upon construction of the parking lot, the parking spaces must be marked on the parking lot surface according to city standards to the extent that those spaces are required in connection with a development. Spaces not required for a development need not be marked, or may be marked to lesser standards. Handicapped parking stalls required by state statutes shall be designed and signed per ADA standards.

(b) All permanent parking lots shall be surfaced with one of the following minimum cross sections:

1. Five inches of Class A portland cement concrete;
2. Six inches of asphaltic concrete;
3. Four inches of aggregate (i.e., crushed rock, crushed concrete, slag or other material that cannot be displaced or easily moved by storm water run-off); and
4. Paving bricks or blocks, subject to approval of the city.

(5) *Surfacing.* The non-permanent parking lot may be surfaced as approved by the city, and shall be maintained in a dust free condition. It should be noted that the above alternatives are designed only to serve as minimum standards. In situations where moderate to heavy truck loads are anticipated, the structural load capacity of the surfacing should be analyzed and designed accordingly. In such

instances, a thicker or reinforced section may be desirable.

(6) *Schedule of minimum off-street parking and loading requirements.*

<i>Structures and Uses</i>	<i>Minimum Off-Street Parking Regulations</i>	<i>Minimum Off-Street Loading Requirements</i>
Bed and breakfast guest home	1 space per 2 rental guest rooms	None
Bowling alleys	1 spaces per alley	1 space per establishment
Child care centers	1 space per employee	1 space per 10 children
Churches, synagogues and temples	1 space per 4 seats in main unit of worship	None required
Domestic shelters	1 space for every 4 residents plus 1 space per 2 employees	None required
Eating and drinking places	Parking spaces equal to 30% of capacity in persons	2 spaces per establishment
Education uses	Parking spaces equal to 40% of capacity in students	2 spaces per structure
Education uses, nursery and primary	Parking spaces equal to 20% of capacity in students	2 spaces per structure
Funeral homes and chapels	8 spaces per reposeing room	2 spaces per establishment
Hospitals	1 space per 2 beds	3 spaces per establishment
Hotels	1 space per 2 rental units	1 space per establishment
Industrial uses	1 space per 2 employees on largest shift	2 spaces per establishment
Libraries	1 space per 500 square feet floor area	1 space per structure
Medical clinics	5 spaces per staff, doctor or dentist	None required
Mobile home park	2 spaces per dwelling unit	None required
Motels	1 space per rental unit	None required
Private clubs and lodges	1 space per 500 square feet floor area	1 space per establishment
Residential structures (multiple family and townhouse)	1 space per sleeping room	None required
Residential structures (single-family and two-family)	2 spaces per dwelling unit	None required
Retail sales establishment	1 space per 200 square feet sales floor area	1 space per establishment
Roadside stands	4 spaces per establishment	None required
Sanitariums, rest home service, convalescent	1 space per 3 beds, plus 1 space per employee	1 space per establishment

Wayne - Land Usage

<i>Structures and Uses</i>	<i>Minimum Off-Street Parking Regulations</i>	<i>Minimum Off-Street Loading Requirements</i>
Service establishment	1 space per 200 square feet gross floor area	1 space per establishment
Theaters, auditoriums, places of assembly	1 space per 5 people in design capacity	1 space per establishment
Veterinary establishment	3 spaces per staff doctor	None required
Wholesale and distribution operations	1 space per 2 employees on largest shift	2 spaces per establishment

(2002 Code, § 90-710) (Ord. 93-11, passed 9-28-1993; Ord. 2001-19, passed 11-27-2001; Ord. 2002-17, passed 12-17-2002; Ord. 2006-10, passed 9-12-2006; Ord. 2007-26, passed 1-15-2008; Ord. 2009-17, passed 7-21-2009; Ord. 2012-60, passed 12-18-2012; Ord. 2013-11, passed 2-19-2013)

§ 152.140 MOBILE HOME AND MANUFACTURED HOME REGULATIONS.

(A) *Mobile home parks.* A mobile home, manufactured home or trailer park may be established in specified zoning districts; provided, the proposed mobile home park meets all of the following requirements.

(1) All requirements of the code regarding mobile homes shall be complied with.

(2) Individual mobile home, manufactured home lots shall have an area of not less than 4,000 square feet.

(3) Planting of trees and shrubs is required to the extent needed to provide for screening, adequate shade and a suitable setting for the mobile homes, manufactured homes in the park as well as neighboring uses. Determination of such needs will be established at the time of permit application and review.

(4) (a) The area of the mobile home, manufactured home or trailer stand shall be improved to provide an adequate and approved foundation for the placement and tiedown of the mobile home, manufactured home or trailer, thereby securing the superstructure against uplift, sliding, rotation or overturning.

(b) The mobile home, manufactured home or trailer stand shall be incombustible materials and shall not shift or settle unevenly under the weight of the mobile home, manufactured home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the superstructure. The mobile home, manufactured home or trailer stand may be provided by means of a solid concrete footer block (16-inch by 16-inch by four-inch minimum) placed on solid uniform soil with at least two standard concrete blocks with cells placed vertically beside each other on the footer block. A solid four-inch concrete cap covering the two concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home, manufactured home or trailer. Such blocking shall be provided along the full length of the mobile home, manufactured home or trailer

unit, spaced not more than ten feet apart, and not more than five feet from the ends of the unit.

(5) The mobile home, manufactured home or trailer stand shall be provided with anchors and tiedowns such as cast-in-place concrete deadman eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home, manufactured home or trailer. The tiedown devices shall be compatible with the foundation system provided for the mobile home, manufactured home or trailer such that the tiedowns are designed to resist the action of frost in the same manner as the foundation system.

(6) Skirting or underpinning shall enclose the entire area directly under the dwelling unit including the tongue area if non-detachable.

(7) Where possible, the tongue or towing mechanism shall be removed from the main frame.

(B) *Mobile homes and manufactured homes.* Mobile homes and manufactured homes which do not qualify under division (C) below, but where otherwise specifically allowed to be placed on individual lots within a zoned area, excluding mobile homes and manufactured homes within a mobile home park, shall comply with the following requirements.

(1) The structure shall be not less than 14 feet in width as titled by the state, and 800 square feet of finished living area, and shall have an insignia of compliance with HUD standards and manufactured after 6-15-1976.

(2) Mobile homes and manufactured homes shall be attached to permanent and continuous foundation which maintain at least 18 inches of clear crawl space. The foundations shall be of sufficient strength to support the loads imposed by the mobile home and manufactured home, based on accepted engineering design standards, as approved by the Zoning Administrator. Foundation tiedowns or other supports shall be provided to withstand the specified horizontal, uplift and overturning wind forces on a mobile home and manufactured home, based on accepted engineering design standards, as approved by the Zoning Administrator. All wheels and towing assemblies shall be removed.

(C) *Standards for manufactured homes located in permitted zones.* A manufactured home bearing an appropriate seal which indicates that it was constructed in accordance with the standards of the State Department of Health and Human Services regulation and licensure of the United States Department of Housing and Urban Development, and installed according to the same standards for foundation system, permanent utility connection, setback and minimum square footage which would apply to a site-built, single-family dwelling on the same lot, may be located on any lot in a residential zone or where residential use is otherwise allowed in other zones of the city; provided that, the manufactured home meets 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 two and one-half 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-built, single-family construction.

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

(6) The home shall have wheels, axles, transporting lights and removable towing apparatus removed.

(2002 Code, § 90-711) (Ord. 97-1, passed 2-11-1997; Ord. 2005-10, passed 5-10-2005)

Statutory reference:

Manufactured homes in certain zoning districts, see Neb. RS 19-902

§ 152.141 CAMPGROUNDS.

A campground may be established in specified districts according to the procedure for granting an exception; provided that, the proposed campground meets all the following requirements.

(A) A campground shall have an area of not less than one acre nor more than five acres, and no camping unit or service structure shall be closer to a street/road/highway right-of-way or other property line than 25 feet.

(B) A campground shall provide minimum facilities, including central travel trailer sanitary and water stations, toilets and refuse containers.

(C) Certification of compliance with all ordinances and regulations regarding zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations shall be prior requirement for granting an exception.

(D) Individual camping units, other than tents, shall have a lot area of not less than 750 square feet; and the total number of units per gross acre shall not exceed 20.

(E) Individual tent camping units shall be located in separate areas designated for tent camping.

(F) The layout of the campground shall be such that destruction of the natural vegetation and topography of the area is minimized.

(G) A request for an exception shall set forth the location and legal description of the proposed campground property and a sketch of the proposed campground showing dimensions, roads, parking stations, location of services and any other buildings or improvements.

(2002 Code, § 90-712) (Ord. 93-11, passed 9-28-1993)

§ 152.142 SIGN REGULATIONS.

(A) *On- and off-site signs on interstate or federal-aid primary highways.* The erection or maintenance of any advertising sign, display or device which is visible to the traveled way of the

national system of interstate and defense highways and the system of federal-aid primary roads of the state as defined by the State Department of Roads is prohibited unless in compliance with the regulations set forth within rules and regulations relating to the control of advertising in areas adjacent to the interstate and federal-aid primary highways, as amended, adopted and published by the State Department of Roads and made a part of this chapter by reference.

(B) *On-site signs.* On-site signs not on interstate or federal-aid primary highways, and erected as an on-site sign in those districts where such is permitted, shall have a maximum surface area of 80 square feet and shall be located in an area from the street right-of-way to a point 15 feet beyond the right-of-way.

(1) Each sign shall have a maximum surface area of 80 square feet.

(2) Each sign shall have a maximum width of ten feet and a maximum height of eight feet.

(3) The highest point of any sign shall not extend more than 20 feet measured from ground level at its supports.

(4) Each sign shall be no less than 100 feet from any other sign erected on the same side of a street from which the signs are intended to be read.

(5) Each sign shall not be closer than 50 feet from a street intersection at grade.

(6) Each sign shall be located in an area from the street or road right-of-way to a point 15 feet beyond the right-of-way.

(C) *Home occupation signs.* A home occupation sign shall not exceed three square feet in area, shall be non-illuminated and shall be mounted flat against the wall of the principal building. (2002 Code, § 90-713) (Ord. 93-11, passed 9-28-1993)

§ 152.143 PERFORMANCE STANDARDS FOR INDUSTRIAL USES.

(A) *Generally.* The performance standards given in this section shall apply as minimum standards in those districts where compliance with the standard is required.

(B) *Limited industrial performance standards.* To be a permitted industrial use in an I-1 District, whether as a permitted use or as an exception, such use must meet the following performance standards.

(1) *Physical appearance.* All operations shall be carried on within an enclosed building; except that, new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street.

(2) *Fire hazard.* No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazard. This provision shall not be construed to prohibit the

use of normal heating fuels, motor fuels and welding gases when handled in accordance with other city regulations.

(3) *Noise*. No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line; and, when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used, and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

(4) *Sewage and liquid wastes*. No operation shall be carried on which involves the discharge into a sewer, watercourse or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

(5) *Air contaminants*. There shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety to any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.

(6) *Odor*. The emission of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor, it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this section.

(7) *Glare and heat*. All glare, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the property line. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than 5°F.

(2002 Code, § 90-714) (Ord. 93-11, passed 9-28-1993)

§ 152.144 HOME OCCUPATION REQUIREMENTS.

A home occupation may be carried on within a dwelling unit or accessory building under the following conditions.

(A) *Restriction and limitations*.

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) The use of the dwelling unit for the one occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The maximum allowable area that may be utilized in conducting such home occupation shall be equal to 25% of the floor area of the dwelling

unit.

(3) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three square feet in area, non-illuminated and mounted flat against the wall of the principal building.

(4) The maximum allowable area that may be utilized in conducting a home occupation in an accessory building shall not exceed 200 square feet.

(5) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.

(7) No outdoor storage of materials or equipment used in the home occupation shall be permitted.

(B) *Particular home occupations permitted.* Customary home occupations include, but are not limited to, the following list of occupations; however, each listed occupation is subject to the requirements of division (A) above:

(1) Art, dancing and music schools; provided that, instruction is limited to five pupils at one time;

(2) Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers and similar professions;

(3) Offices for realtors, insurance agents, brokers, sales representatives and manufacturing representatives when no exchange of tangible goods is made on the premises;

(4) Radio, television, phonograph, recorded and small appliance repair services;

(5) Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making and the like;

(6) Tailoring, alterations and seamstresses;

(7) Saw filing;

(8) Beauty parlor or barber services; and

(9) Home schools.

(C) *Particular home occupations prohibited.* Permitted home occupations shall not in any event be deemed to include:

- (1) Mortuaries or funeral home;
- (2) Restaurants;
- (3) Stables or kennels;
- (4) Antique shop;
- (5) Physicians, dentists or other licensed medical practitioners;
- (6) Auto repair;
- (7) Small engines/engine repair;
- (8) Second hand dealer; and
- (9) Antique dealer.

(D) *Exception procedure.* If a home occupation exceeds the restrictions and limitations identified in division (A) above or is an identified prohibited use in division (C) above, an applicant may apply for an exception in conformance with §§ 152.195 through 152.202 of this chapter.
(2002 Code, § 90-715) (Ord. 93-11, passed 9-28-1993; Ord. 2001-15, passed 10-9-2001)

§ 152.145 GROUP HOMES.

(A) *Definition.* **GROUP HOME** shall mean a facility licensed by the state in which at least four, but not more than eight, persons, not including resident managers or house parents, who are unrelated by blood, marriage or adoption, reside while receiving therapy, training or counseling for the purposes of adaptation to living with, or rehabilitation of mental or physical disabilities.

(B) *Establishment.* A group home, as defined in division (A) above, may be established and operated in any residential zone within the exercised zoning jurisdiction of the city, except as limited in division (C) below.

(C) *Exceptions.* Departments and agencies of the state are prohibited from licensing a new group home if it will be within 1,200 feet of an existing group home, unless the Council grants the proposed facility a conditional or special use permit. For purposes of this section, the term **EXISTING GROUP HOME** shall include, in addition to group homes defined in division (A) above, a home of any size which serves other populations, including, but not limited to, correctional homes and homes which serve people recuperating from the effects of drugs or alcohol, mental illness or physical disability.

(D) *Number limited.* The number of group homes established in the city shall be limited according to the population of the city; except that, the Council may issue a variance to allow additional group homes. For a city with a population of more than 1,000 and less than 10,000 residents, one group home may be established for every 2,000 residents.

(2002 Code, § 90-716)

NON-CONFORMING USES

§ 152.160 INTENT.

(A) Non-conformities are of three types: non-conforming lots of record, non-conforming structures and non-conforming uses.

(B) A definition of each type is as follows.

(1) ***NON-CONFORMING LOT OF RECORD.*** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the original adoption of zoning and/or subdivision regulations in the city, and neither the lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

(2) ***NON-CONFORMING STRUCTURE.*** An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.

(3) ***NON-CONFORMING USE.*** An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.
(2002 Code, § 90-751) (Ord. 93-11, passed 9-28-1993)

§ 152.161 NON-CONFORMING LOTS OF RECORD.

The Zoning Administrator may issue a building permit for any non-conforming lot of record; provided, the lot:

(A) Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations;

(B) Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time the creation of such lot has been prohibited by any zoning regulations; and

(C) Can meet all yard regulations for the district in which it is located.
(2002 Code, § 90-752) (Ord. 93-11, passed 9-28-1993)

§ 152.162 NON-CONFORMING 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 intensity of use regulations and/or the applicable yard and height regulations, may be continued so long as it remains otherwise lawful.

(B) *Enlargement, repair, alterations.* Any non-conforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; however, no such enlargement, maintenance, repair or remodeling shall either create any additional non-conformity or increase the degree of existing non-conformity of all or any part of such structure; however, a porch which is covered by a roof which extends into the front setback area may be enclosed, but not in excess of the area covered by the existing roof.

(C) *Damage or destruction.*

(1) If any non-conforming structure is damaged or destroyed, by any means, to the extent of more than 60% of its current property tax assessed value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located.

(2) When a structure is damaged to the extent of 60% or less, no repairs or restoration shall be made unless a building permit is obtained within six months and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

(D) *Moving.* No non-conforming 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.
(2002 Code, § 90-753) (Ord. 93-11, passed 9-28-1993)

§ 152.163 NON-CONFORMING USES.

(A) *Authority to continue.* Any lawfully existing non-conforming use of part or all of a structure or any lawfully existing non-conforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued so long as otherwise lawful.

(B) *Ordinary repair and maintenance.*

(1) Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use.

(2) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

(C) *Extension.* A non-conforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activities shall include without being limited to the extension of such use to

any structure or land area other than that occupied by such non-conforming use on the effective date of the ordinance from which this chapter derives (or on the effective date of subsequent amendments that cause such use to become non-conforming).

(D) *Enlargement.* No structure that is devoted in whole or in part to a non-conforming use shall be enlarged or added to in any manner unless such structure and its use shall thereafter conform to the regulations of the district in which it is located.

(E) *Damage or destruction.*

(1) If any structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, no repairs or restoration shall be made unless a building permit is obtained within six months and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

(2) When a residential structure is damaged to the extent of 60% of its current property tax assessed value or more, no repairs or restoration shall be made unless such use is in conformance with this chapter.

(F) *Moving.* No structure that is devoted in whole or in part to a non-conforming use and no non-conforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and its use or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

(G) *Change in use.*

(1) If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any non-conforming use of a structure or structure and premises, may be changed to another non-conforming use; provided, the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing non-conforming use.

(2) **MORE APPROPRIATE** shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

(H) *Abandonment or discontinuance.* When a non-conforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed; and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

(I) *Non-conforming accessory uses.* No use which is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.

(J) *Non-conforming residential uses.* Any structure which is devoted to residential uses which is located in a business or industrial district may be remodeled, extended, expanded and enlarged up to

40% of the present residential structure; but after any such remodeling, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.

(K) *Outside storage.* The outside storage of unlicensed, inoperable vehicles or salvaged or junked materials not in conformance with this chapter shall be discontinued, and such inoperable vehicles or salvaged or junked materials shall be removed within six months after 9-28-1993.
(2002 Code, § 90-754) (Ord. 93-11, passed 9-28-1993)

§ 152.164 STATUS OF EXCEPTION OR CONDITIONAL USES.

(A) *Status of existing exception or conditional uses.* Where a use exists at the effective or amendment date of this chapter and is permitted by this chapter only as an exception or conditional use in the zoning district in which it is located, such use shall not be deemed to be a non-conforming use but shall, without further action, be deemed a lawful conforming use in such zoning district, as provided by prior approval.

(B) *Status of future special permitted or conditional uses.* Any use for which an exception or conditional use permit has been issued, as provided in this chapter, shall not be deemed to be a non-conforming use, but shall, without further action, be deemed a lawful conforming use.
(2002 Code, § 90-755) (Ord. 93-11, passed 9-28-1993)

BOARD OF ZONING ADJUSTMENT

§ 152.175 CREATION; TERMS; MEETINGS; RULES.

(A) A Board of Adjustment is created which may in appropriate cases make special exceptions to the terms of this chapter in harmony with the general purpose and intent and in accordance with general and specific rules contained in this chapter.

(B) The Board of Adjustment shall consist of five members, plus one additional member designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason, appointed by the Mayor and confirmed by the Council and removable for cause by the Council upon written charges after public hearings. The term of office for each member shall be three years; except that, when the Board shall first be created, one member shall be appointed for a term of one year, two members for a term of two years and two members for a term of three years. Vacancies shall be filled for the unexpired term of any member whose term becomes absent, and no member shall be reappointed to the Board for a period of time of two years from the expiration of his or her term. One member of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.

(C) The Board of Adjustment shall adopt rules in accordance with the provision of this chapter.

Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson 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 proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(2002 Code, § 90-791) (Ord. 93-11, passed 9-28-1993)

§ 152.176 APPEALS TO BOARD OF ADJUSTMENT.

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

(2002 Code, § 90-792) (Ord. 93-11, passed 9-28-1993)

§ 152.177 POWERS.

(A) The Board of Adjustment shall have only the following powers:

(1) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any administrative official or agency based on or made in the enforcement of this chapter or any regulation relating to the location or soundness of structures;

(2) *Interpretation; special questions.* To hear and decide, in accordance with the provisions of this chapter, requests for interpretation of any map, requirement or provision of this chapter; and

(3) *Variances; conditions governing applications; procedures.*

(a) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the ordinance from which this chapter derives, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict practical difficulties to or exceptional and undue hardships upon the

owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.

(b) No such variance shall be authorized by the Board unless it finds that:

1. The strict application of this chapter 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;
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice;
5. Such hardship does not result from the actions of the owner of such property; and
6. The granting of such variance will not confer on the owner of such property any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.

(B) 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 so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

(C) No non-conforming use of neighboring land, structures or buildings in the same district and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance.

(2002 Code, § 90-793) (Ord. 93-11, passed 9-28-1993)

§ 152.178 REQUIREMENT FOR WRITTEN APPLICATION AND CONDITIONS.

(A) *Grant of variance.*

(1) A variance from the terms of this chapter shall not be granted by the Board of Adjustment until:

(a) A written application for a variance is submitted indicating the terms of this chapter under which the variance is sought, stating the grounds on which it is requested and the specific variance requested;

(b) Notice shall be given at least ten days in advance of public hearing. The owner of the property for which variance is sought or his or her agent shall be notified by mail. Notice of such

hearing shall be posted on the property for which variance is sought, at the City Hall and in one other public place, at least ten days prior to the public hearing; and

(c) The public hearing shall be held. Any party may appear in person or by agent or attorney.

(2) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance under the terms of this chapter, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

(3) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(B) *Conditions imposed.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under § 152.999 of this chapter.

(C) *Use variances.* Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.
(2002 Code, § 90-794) (Ord. 93-11, passed 9-28-1993)

§ 152.179 BOARD HAS POWERS OF ADMINISTRATIVE OFFICER ON APPEALS; REVERSING DECISION OF ADMINISTRATIVE OFFICER.

(A) In exercising the powers mentioned in § 152.177 of this chapter, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the 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.

(B) The concurring vote of four 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 this chapter or to effect any variation in the application of this chapter.
(2002 Code, § 90-795) (Ord. 93-11, passed 9-28-1993)

§ 152.180 APPEALS TO DISTRICT COURT.

Any person, official or governmental agency aggrieved with any decision or determination of the Board of Adjustment may present a petition to the District Court, specifying the grounds of illegality and the procedure as provided for in Neb. RS 19-912.
(2002 Code, § 90-796) (Ord. 93-11, passed 9-28-1993)

EXCEPTIONS AND CONDITIONAL USES**§ 152.195 GENERAL POWERS.**

The City Planning Commission shall make recommendations to the City Council on use by exception applications in all zoning districts and City Council may grant special exceptions to property owners for the use of their property in all zoning districts as authorized by Council through this chapter. The granting of an exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in this chapter as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building is authorized. The exceptions shall take effect upon issuance of a special exception use permit.

(2002 Code, § 90-831) (Ord. 93-11, passed 9-28-1993; Ord. 2004-2, passed 4-13-2004)

§ 152.196 APPLICATION REQUIREMENTS.

A written application for an exception use permit, together with a filing fee, initiated by a property owner or authorized agent shall be submitted to the Zoning Administrator, indicating the section of this chapter to be excepted and stating the reason for which it is requested. The application shall be filed with the Zoning Administrator at least 15 days prior to the Planning Commission meeting. All exception use permits shall be submitted to the Planning Commission for action and report.

(2002 Code, § 90-832) (Ord. 93-11, passed 9-28-1993)

§ 152.197 PUBLIC HEARING BY PLANNING COMMISSION.**(A) *Conduct.***

(1) The Planning Commission shall hold public hearings upon all applications for exception use permits. Upon receipt of a complete application, the Zoning Administrator shall file a public notice in the legal newspaper of the city at least ten days prior to the Planning Commission's scheduled public hearing. Such notice shall fix the time and place for such hearing and contain a statement describing the request. A copy of such notice shall be mailed to each party in interest and to the Planning Commission.

(2) If such proposed request will affect specific property, it shall be designated by legal description and general street location; and in addition to such publication notice, written notice of such application shall be mailed to all owners of lands located within 300 feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

(B) *Exception use permit application; agricultural and residential zones.*

(1) The Planning Commission shall hear and review a request pertaining to agricultural and residential zones and within 35 days approve the request, disapprove the request or table the request for

a specified period of time with the consent of the applicant for further study and review.

(2) Upon disapproval of a request, the Planning Commission shall forward to the applicant a statement specifying the basis for disapproval, The Planning Commission's action on the applicant's request shall be defined in the official minutes of the Planning Commission's hearing.

(C) *Exception use permit application; commercial and industrial zones.* The Planning Commission shall hear and review a request pertaining to commercial and industrial zones and within 35 days either: recommend approval of the request or disapproval of a request to the Council; or table the request for a specified period of time with the consent of the applicant for further study and review. (2002 Code, § 90-833) (Ord. 93-11, passed 9-28-1993)

§ 152.198 PUBLIC HEARING BY COUNCIL.

(A) The Council shall hold public hearings upon all applications for exception use permits. Upon receipt of a complete application and recommendation from the Planning Commission, the City Clerk shall file a public notice in the legal newspaper of the city at least ten days prior to the Council's scheduled public hearing. Such notice shall fix the time and place for such hearing and contain a statement describing the request. A copy of such notice shall be mailed to each party in interest and to the Council.

(B) If such proposed request will affect specific property, it shall be designated by legal description and general street location; and, in addition to such public notice, written notice of such application shall be mailed to all owners of lands within 300 feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

(C) The Council shall hear and review the request and the Planning Commission's recommendation and within 35 days approve the request, disapprove the request or table the request for a specified period of time with the consent of the applicant for further study and review. (2002 Code, § 90-834) (Ord. 93-11, passed 9-28-1993; Ord. 2004-2, passed 4-13-2004)

§ 152.199 EXCEPTION USE STANDARDS.

(A) *Generally.* The Planning Commission and the Council shall put their findings in writing which state the extent of compliance with the specific rules governing individual exceptions and the extent that satisfactory provision and arrangement have been made concerning the provisions of divisions (B) and (C) below where applicable.

(B) *Special permitted uses; standards.* The Planning Commission and the Council, in considering an application for an exception use, may consider, among other things, the most appropriate use of the land; the conservation and stabilization of the value of property; adequate open space for light and air; concentration of population; congestion of public streets; and the promotion of public safety, health, convenience and comfort. The Planning Commission and the Council may stipulate and require such conditions and restrictions upon the exception use and operation deemed necessary for the protection of the public interest and to secure compliance with this chapter. The exception permitted uses shall

conform to the intent and purpose of this chapter and the following requirements.

(1) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(2) The use shall conform to all other applicable ordinances, laws and regulations of any governmental jurisdiction.

(3) The use shall have adequate water, sewer and drainage facilities approved by the City Engineer.

(4) The use shall not interfere with permitted agricultural uses in the surrounding area.

(5) The use shall be in harmony with the character of the area and the most appropriate use of the land.

(C) *Special conditions.* Special conditions shall be required for the following uses:

(1) For child care centers/preschools:

(a) The application shall be accompanied by the following information:

1. Number and ages of children to be cared for at the facility;

2. Number of full-time and part-time staff members; and

3. Physical description and layout of the facility, including proposed improvements and alterations to the existing facility; parking spaces, loading and unloading areas, proposed traffic flow including ingress and egress, fence, play area and floor plan.

(b) Shall provide at least 100 square feet of open space per child. This open space shall be 100% enclosed by a solid fence or wall at least four feet but not more than six feet high, and having a density of not less than 80% per square foot. Open space/play area shall be readily accessible to the main facility, free from hazards and set away from the main street;

(c) Shall provide the parking and loading spaces as required in § 152.139 of this chapter;

(d) Shall conform with all requirements of the state and shall acquire a state day care center license or a state preschool license; and

(e) Shall not use mobile homes for such facility.

(2) For kennels (breeding and boarding):

(a) The minimum lot size shall be not less than two acres.

(b) No kennel buildings or runs shall be located nearer than 75 feet to any property line.

(c) All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick or stone wall, louvered wood, stockade or chainlink fence with aluminum strip intertwined, or other equivalent fencing providing a sight barrier to the dogs.

(3) (a) Auto wrecking yards, junkyards, salvage yards and scrap processing yards which shall be located on a tract of land at least 300 feet from a residential district zone.

(b) The operation shall be conducted wholly within a non-combustible building or within an area completely surrounded on all sides by a fence or wall at least eight feet high. The fence or wall shall be of uniform height, uniform texture and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No scrap, junk or other salvaged materials may be piled so to exceed the height of this enclosing fence or wall.

(c) No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.

(d) Burning of paper, trash, junk or other waste materials shall be prohibited.

(e) No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.

(4) For wind generating systems:

(a) No tower or propeller shall be so located as to ever be within 100 feet of any structure, power line or antenna located on other than the property on which the system is located.

(b) The height of a wind generation system shall not exceed by more than 50% the height requirement of the district in which it is located, and the bottom tip of any propeller shall be at least ten feet above any accessible pedestrian area.

(c) The system and component parts must be totally surrounded by a fence having a minimum height of six feet and a maximum height of eight feet unless otherwise physically inaccessible to the public.

(d) The system shall not cause interference to the radio and television reception on adjoining property.

(e) The system shall contain a braking device for speeds above 40 mph.

(f) The safety results of an approved testing laboratory shall be submitted.

(5) For private recreation building (controlled impact):

(a) The minimum size of the premises shall be one acre.

(b) The building shall not exceed 7% of the area of the premises.

(c) If the building is accessory to the principal use of the property, it must meet the same setbacks as the principal use.

(d) Collectively, the areas occupied by all existing and proposed structures do not exceed 50% of the entire lot area.

(2002 Code, § 90-835) (Ord. 93-11, passed 9-28-1993; Ord. 2001-19, passed 11-27-2001; Ord. 2002-17, passed 12-17-2002; Ord. 2012-26, passed 6-19-2012)

§ 152.200 EXPIRATION OF EXCEPTION USE PERMITS

(A) Within three years of the approval, construction of the proposed site shall have commenced or the approval is void.

(B) After expiration, a new application is required if construction has not started and processed according to the provisions outlined in this chapter.

(2002 Code, § 90-836) (Ord. 93-11, passed 9-28-1993; Ord. 2011-7, passed 8-16-2011)

§ 152.201 APPEAL OF PLANNING COMMISSION ACTION.

(A) An applicant for an exception use permit or any aggrieved person within the designated 300-foot area may appeal any action of the Planning Commission to the Council by filing notice of appeal with the City Clerk within 14 days following the action of the Planning Commission.

(B) In case of protest against such exception use permit, aggrieved persons within the designated 300-foot area may file notice of appeal provided it is signed by the owners of 51% or more of the area of lots included in such proposed change, or of those immediately adjacent on the side and in the rear extending 300 feet of those directly opposite, extending 300 feet from the street frontage of such opposite lots.

(C) Upon receipt of the appeal by the Council, the Council shall hold a public hearing within 45 days from the date of appeal. Notice of the public hearing shall be given as provided in § 152.198 of this chapter.

(D) By majority vote of the members elected, the Council may, after public hearing, in conformity with the provisions of this chapter, reverse or modify, wholly or partially, the action of the Planning Commission appealed from.

(2002 Code, § 90-837) (Ord. 93-11, passed 9-28-1993)

§ 152.202 CONDITIONAL USE PERMITS.

The Zoning Administrator will review and approve, if all applicable conditions specified in the zoning district regulations are met, applications for conditional use permits. A written application for a conditional use permit, initiated by a property owner or authorized agent, shall be submitted to the Zoning Administrator with the required information and documentation identified in this chapter. The Zoning Administrator shall review and either approve or reject the application within 30 days. (2002 Code, § 90-838) (Ord. 93-11, passed 9-28-1993)

ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

§ 152.215 DUTIES OF ADMINISTRATIVE OFFICIAL; ADMINISTRATION AND ENFORCEMENT.

(A) An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Council shall administer and enforce this chapter. He or she may be provided with the assistance of such other persons as the Council may direct.

(B) If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; or discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(2002 Code, § 90-881) (Ord. 93-11, passed 9-28-1993)

§ 152.216 BUILDING PERMITS REQUIRED.

(A) No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the administrative official. No permit shall be issued by the administrative official, except in conformity with the provisions of this chapter, unless he or she receives a written order from the Board of Adjustment in the form of an administrative review or variance as provided by this chapter.

(B) No building permit or city construction over-site shall be required for farm buildings erected within the city's extraterritorial zoning jurisdiction. Any farm buildings being erected will however require a certificate of zoning compliance and an occupancy certificate once the structure is complete. A building permit, inspections and occupancy certificate are still required for all non-farm buildings erected within the city's extraterritorial zoning jurisdiction.

(2002 Code, § 90-882) (Ord. 93-11, passed 9-28-1993; Ord. 2010-11, passed 6-15-2010)

§ 152.217 OCCUPANCY PERMITS.

(A) *General.* No structure or addition constructed, built, moved, remodeled or reconstructed after

the effective date of the ordinance from which this chapter derives or subsequent amendments shall be occupied or used for any purpose; and no land vacant on the effective date of this chapter shall be used for any purpose; and no use of land or structure shall be changed to any other use unless an occupancy permit shall first have been obtained from the Zoning Administrator certifying that the proposed use of occupancy complies with all the provisions of this chapter.

(B) *Application for occupancy.*

(1) Every application for a building permit shall be deemed to be an application for an occupancy permit.

(2) Every application for an occupancy permit for a new or changed use of land or structures where no building permit is required shall be filed with the Zoning Administrator and be in such form and contain such information as the Zoning Administrator shall provide by general rule.

(C) *Issuance of occupancy permit.*

(1) No occupancy permit for a structure or addition constructed, built, moved, remodeled or reconstructed after the effective date of the ordinance from which this chapter derives shall be issued until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the building permit was issued. No occupancy permit for a new use of any structure or land shall be issued until the premises have been inspected and certified by the Zoning Administrator to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy permit, a temporary occupancy permit may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or during partial occupancy of the premises.

(2) An occupancy permit shall be issued, or written notice shall be given to the applicant stating the reasons why a permit cannot be issued, within ten days after the receipt of any application, or after the Zoning Administrator is notified in writing that the structure or premises are ready for occupancy.

(2002 Code, § 90-883) (Ord. 93-11, passed 9-28-1993)

§ 152.218 SCHEDULE OF FEES, CHARGES AND EXPENSES.

Fee schedules shall be established by resolution of the Council.

(2002 Code, § 90-884) (Ord. 93-11, passed 9-28-1993)

AMENDMENTS

§ 152.230 GENERALLY.

The Council may supplement, change or generally revise the boundaries or regulations contained in this chapter by amendment. A proposal for such amendment may be initiated by the Council or the Planning Commission or upon application of the owner of the property affected. Fee schedules shall be established by resolution of the Council.

(2002 Code, § 90-901) (Ord. 93-11, passed 9-28-1993)

§ 152.231 SUBMISSION TO PLANNING COMMISSION.

(A) All proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing and shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

(B) If such proposed amendment is not a general revision of an existing provision of this chapter and will affect specific property, it shall be designated by legal description and general street location; and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within 300 feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

(C) Failure to receive such notice shall not invalidate any subsequent action taken. Such notice is sufficient to permit the Planning Commission to recommend amendments to regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice; provided that, recommending a zoning classification of lesser change than that set forth in the notice shall not be valid without republication and, where necessary, remailing.

(D) In addition to the publication of the notice prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 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 such premises that it is easily visible from the street nearest the premises and shall be so posted at least ten days prior to the date of such hearing.

(E) It shall be unlawful for anyone to remove, mutilate, destroy or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owners of any lots included in such proposed change are non-residents of the city, a written notice of such hearing shall be mailed by certified mail to them addressed to their last known addresses at least ten days prior to such hearing. The provisions of this section in reference to notice shall not apply in the event of a proposed change in such regulations, restrictions and boundaries throughout the entire area of the city, but only the requirement of the statutes of the state shall be applicable.

(F) In order to provide for orderly school planning and development and to protect prospective homeowners, their children and the taxpayer from ill-conceived and poorly planned development of real estate, the Planning Commission considering the adoption or amendment of this chapter shall

notify the board of education of each school district in which the real estate, or some part, to be affected by such a proposal lies, of the next regular meeting of the Planning Commission at which such proposal is to be considered and shall submit a copy of the proposal to the Board of Education at least ten days prior to such meeting. The Board may, in writing or by personal audience before the Planning Commission, recommend to the Planning Commission that such amendment be approved or disapproved. The recommendation shall be advisory, and failure of the Board of Education to make the recommendation shall be construed as an approval of the proposal as submitted.

(2002 Code, § 90-902) (Ord. 93-11, passed 9-28-1993) Penalty, see § 152.999

§ 152.232 AMENDMENT CONSIDERATION AND ADOPTION.

(A) The procedure for consideration and adoption of any proposed amendments shall be in like manner as that required for the consideration and adoption of this chapter except as modified in this subchapter. For action on zoning amendments, a quorum of the Planning Commission is more than half of all members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the Commission; whereas a vote either for or against by less than a majority of the Planning Commission present constitutes a failure to recommend.

(B) (1) When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Council, if it approves such recommendation, may either adopt such recommendation by ordinance or take no further action as appropriate. If the Planning Commission submits a failure to recommend, the Council may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the Council disapproves, the Council shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval; and such recommendation shall be considered in like manner as that required for the original recommendations returned to the Planning Commission.

(2) If such amendment shall affect the boundaries of any district, the ordinance shall define the change or the boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the ordinance incorporating the map and reincorporate the map as amended.

(2002 Code, § 90-903) (Ord. 93-11, passed 9-28-1993)

§ 152.233 PROTEST.

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment is filed in the office of the Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of 20% or more of any real property proposed to be rezoned or by the owners of 20% of the total area excepting public streets and ways, located within or without the corporate limits of the city and located within 300 feet of boundaries of the property proposed to be rezoned, the ordinance adopting such amendment shall not be passed, except by at least three-fourths vote of all members of the Council.

(2002 Code, § 90-904) (Ord. 93-11, passed 9-28-1993)

§ 152.999 PENALTY.

(A) Any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be found guilty of a separate offense and suffer the penalties provided in this section. Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be fined not more than \$100 for each offense. Each day that such violation continues shall constitute a separate offense.

(2002 Code, § 90-12)

(B) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the appropriate authorities of the city may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(2002 Code, § 90-13)

(C) Violation of the provisions of § 152.111 of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates § 152.111 of this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(2002 Code, § 90-571)

(Ord. 93-11, passed 9-28-1993; Ord. 2008-3, passed 1-15-2008)

APPENDIX A: DESIGN STANDARDS FOR PARKING LOTS*(A) Drainage.*

(1) All parking lots shall be designed to develop proper site drainage. Proper site drainage is required to dispose of all storm water that is accumulated on the site.

(2) If a new parking lot containing 6,000 square feet or more is located within 150 feet or reasonably accessible to a storm sewer or other drainageway, including open channels and creeks, but excluding gutters, the following standards shall apply: the parking lot must be graded and surfaced such that storm water runoff from the site is collected on the site by a parking lot drainage system and carried to an approved public storm sewer system, and not allowed to discharge through the driveway entrances and exits onto the public way. Proposed finish elevations of the parking lot must be indicated on appropriate plans.

(B) Parking barriers.

(1) *Required.* Approved parking barriers must be provided around parking lots to prevent the parking of vehicles overhanging the sidewalk space, public alley or other public property and adjacent residential property. Approved barriers are also required as necessary to protect any required landscaping or landscape screen planting.

(2) *Approved barriers.* Approved barriers include the following type barriers. Other barriers may be approved, subject to the approval of the city:

- (a) Poured concrete curb, nominal six inches by six inches exposed;
- (b) Fence (minimum 30-inch height), wire fabric, solid wood, post and rail;
- (c) Masonry or concrete wall (minimum 30-inch height);
- (d) Guard rail;
- (e) Post and cable; and
- (f) Precast concrete barriers, firmly and permanently anchored.

(3) *Location.* Barriers must be located to contain the parking within the approved parking lot. When a concrete curb is used as a barrier for perpendicular or angle parking, it must be offset at least two feet from the edge of the parking lot to allow for the front overhang of the vehicle. Other type barriers may be located at the edge of the parking lot.

(C) *Parking layout and markings.* The developer shall submit to the city for review and approval a detailed and accurately scaled parking lot layout, clearly showing the location of parking spaces and aisles, all conforming to city standards. Upon construction of the parking lot, the parking spaces must be marked on the parking lot surface according to city standards to the extent that those spaces are required in connection with a development. Spaces not required for a development need not be marked, or may be marked to lesser standards. Handicapped parking stalls required by state statutes shall be designed and signed as shown on diagrams attached to the ordinance codified herein.

(D) *Surfacing.*

(1) All parking lots other than non-permanent lots that are allowed for a period of two years shall be surfaced with one of the following minimum cross sections:

- (a) Five inches of Class A portland cement concrete;
- (b) Six inches of asphaltic concrete;
- (c) Four inches of crushed rock base covered by three inches of asphaltic concrete; and
- (d) Paving bricks or blocks, subject to the approval of the city.

(2) The non-permanent parking lot may be graveled as approved by the city, and shall be maintained in a dustfree condition during the two-year period. It should be noted that the above alternatives are designed only to serve as minimum standards. In situations where moderate to heavy truck loads are anticipated, the structural load capacity of the surfacing should be analyzed and designed accordingly. In such instances, a thicker or reinforced section may be desirable.

(2002 Code, Ch. 90, App. I) (Ord. 93-11, passed 9-28-1993)

CHAPTER 153: AIRPORT ZONING

Section

- 153.01 Location, boundaries, zones and height restrictions
- 153.02 Location sketch and zoning map
- 153.03 Permits required; exceptions; application forms; permit fees
- 153.04 Non-conforming structures
- 153.05 Marking non-conforming structures
- 153.06 Administrative agency
- 153.07 Zoning Board of Adjustment

§ 153.01 LOCATION, BOUNDARIES, ZONES AND HEIGHT RESTRICTIONS.

The vicinity of the Wayne Airport, located in Sections 8 and 9, Township 26 North, Range 4 East, in Wayne County, Nebraska, from the boundaries of such airport, to a distance of three statute miles in all directions from the adjacent boundaries of the airport, is hereby declared an Airport Hazard Area and is hereby zoned as follows.

(A) *Hazard Area description.* The Hazard Area consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones.

(B) *Zone descriptions.*

(1) The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and 200 feet beyond the end of each runway and shall be 1,000 feet in width for each instrument runway or landing strip and 500 feet in width for all other runways and landing strips.

(2) (a) The Approach Zones shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing strip and 20 feet of width for each 100 feet of horizontal length for all other runways.

(b) The inner area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing strip.

(c) The outer area of each Approach Zone shall be the area between the outer limit of the inner area of the Approach Zone and the outer limit of the Approach Zone.

(3) The Transition Zones shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of contiguous inner areas of Approach Zones, and the outer limits of the Transition Zones; said outer limits of the Transition Zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zone of the Hazard Area and the edges of adjacent inner areas of Approach Zones said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one foot vertically to seven feet horizontally to the lines of intersection previously referred to.

(4) The Turning Zones shall comprise all portions of the Hazard Area not contained in the Operation Zones, Approach Zones and in the Transition Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three statute miles from the nearest points along the airport property lines.

(C) *Height restrictions.* No building, transmission line, communication line, pole, tree, smoke stack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:

(1) In inner areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing strip in excess of 1/50, and all other runways or landing strips in excess of 1/40 of the distance from the end of the Approach Zone (the end nearest the runway or landing strip) to said structure or object;

(2) In the Outer Area of Approach Zones and in Turning Zones to a height in excess of 150 feet above the elevation at the end or proposed end of the nearest runway or landing strip;

(3) In the Transition Zones to a height above the planes forming the transition slopes; and

(4) In the existing or proposed Operation Zones to a height above the existing or proposed finished grade or said runways or landing strips or surface of the ground.
(2002 Code, § 91-1)

§ 153.02 LOCATION SKETCH AND ZONING MAP.

The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of said airport are as indicated on the Zoning Map, Drawing No. ZN-WY-77 which accompanies and is hereby made a part of these regulations, a copy of which shall at all times be on file in the office of the City

Clerk.
(2002 Code, § 91-2)

§ 153.03 PERMIT REQUIRED; EXCEPTIONS; APPLICATION FORMS; PERMIT FEES.

(A) *Permit required.* It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tower, smoke stack, chimney, wires or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth, within the boundary of the zoned area of said airport without first obtaining a permit from the Administrative Agency.

(B) *Exceptions.* In the outer area of Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting which is not higher than 75 feet above the elevation of the end of the nearest runway or landing strip.

(C) *Application forms.* Application for a permit as required under these regulations shall be made upon a form to be available in the office of the City Clerk and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting (mean sea level elevation).

(D) *Permit fees.* The fee for each permit issued shall be \$15 and all fees received by the Administrative Agency shall be paid by him to the City Treasurer for deposit in the Airport Revenue Fund. No fee shall be charged for a permit for any construction or repair whose estimated cost is less than \$100.

(2002 Code, § 91-3) Penalty, see § 10.99

§ 153.04 NON-CONFORMING STRUCTURES.

Within the zoned area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smoke stack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations were adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 80% or more of their original condition, or abandoned for a period of 12 months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the zone regulated.

(2002 Code, § 91-4)

§ 153.05 MARKING NON-CONFORMING STRUCTURES.

Whenever the Administrative Agency shall determine, or shall be notified by the Joint Zoning Board or the State Department of Aeronautics, that a specific non-conforming structure or objects

exists and has existed prior to the passage of these regulations and within the zoned area hereinbefore described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall within a reasonable amount of time permit the marking thereof by suitable lights or other signals designated by the said agency and based on the recommendations of the State Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lessor of said premises.

(2002 Code, § 91-5)

§ 153.06 ADMINISTRATIVE AGENCY.

The Building Inspector/Planner of the city shall administer and enforce these regulations, and shall be in the administrative agency provided for in Neb. RS 3-319, and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act, until otherwise ordered by the Wayne Joint Airport Zoning Board.

(2002 Code, § 91-6)

§ 153.07 ZONING BOARD OF ADJUSTMENT.

The Zoning Board of Adjustment of the city shall be the Joint Airport Zoning Board with respect to these regulations, to have and exercise the powers conferred by Neb. RS 3-320 and such other powers and duties as are conferred and imposed by law.

(2002 Code, § 91-7)

CHAPTER 154: SIGNS

Section

- 154.01 Permit required
- 154.02 Where prohibited
- 154.03 Street decorations
- 154.04 Approval by state
- 154.05 Purpose
- 154.06 Definitions
- 154.07 General sign and street graphics regulations
- 154.08 Basic design elements for on-site and off-site premises signs
- 154.09 Other design elements
- 154.10 Repair or modification of non-conforming signs

§ 154.01 PERMIT REQUIRED.

It shall be unlawful for any person to erect or place any business sign or awning on, in or over any sidewalk, street or public property in the city without obtaining a permit from the Council. Such permit shall state the size and location of the sign. The application for the permit shall be made to the City Clerk, who shall refer it to the Council for its consideration. The Council shall have the power to regulate the size, materials used and general design of the sign and to approve or disapprove each application on its merits. Any permitted sign or awning shall be at least eight feet above any sidewalk, street or public property under the sign or awning.

(2002 Code, § 18-341) Penalty, see § 10.99

§ 154.02 WHERE PROHIBITED.

No person shall erect, construct, place or maintain, or cause to be erected, constructed, placed or maintained, any sign, structure or obstruction of any nature that in any manner interferes with pedestrian or vehicular traffic, including the visibility of such pedestrian or vehicular traffic.

(2002 Code, § 18-342) Penalty, see § 10.99

§ 154.03 STREET DECORATIONS.

No person, as principal, agent or otherwise, shall bring or suspend any street banner, flag, pennant or street decoration over and above any street or other public thoroughfare or cause such action to be

done unless application to do so has first been approved by the City Clerk and a permit in writing has been issued by the City Clerk; and such banner, flag, pennant or street decoration must be safely suspended not less than 20 feet above such public thoroughfares. Such sign shall not remain in place for a period longer than 30 days from the date or the permit given by the City Clerk.

(2002 Code, § 18-343) Penalty, see § 10.99

§ 154.04 APPROVAL BY STATE.

(A) As to any sign or awning that requires the approval of the state before the erection or replacing of any such sign or awning, approval of the state must be obtained by the person desiring to erect or replace such sign or awning before a permit for erecting or replacing such sign or awning will be granted by the city. Such approval of the state shall be filed with the application for a permit from the city.

(B) The requirements set forth in division (A) above shall be in addition to all presently existing requirements made by the city for such permits. The fact that the state has approved an application for erecting or replacing a sign or awning does not, in and of itself, bind the city to issue the city's permit for such sign or awning.

(2002 Code, § 18-344)

§ 154.05 PURPOSE.

The sign regulations provide standards for communicating information in the environment of the city and its jurisdiction. The regulations recognize the need to protect public health, safety and welfare; to maintain the city's attractive appearance; to provide for adequate business identification, advertising and communication of information; and to encourage the fair enforcement of sign regulations.

(2002 Code, § 18-345) (Ord. 2001-4, passed 6-12-2001)

§ 154.06 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The following definitions shall be used for terms contained in this article that are not otherwise defined in Ch. 152 of this code.

ABANDONED/DISCONTINUED SIGN. A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of 12 months.

AT GRADE. For purposes of sign definition, shall be any height or clearance less than six feet of immediate ground elevation to bottom most edge of sign.

ATTACHED SIGN. A sign that is structurally connected to a building or depends upon that building for support.

AWNING and **AWNING SIGN.** A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An **AWNING SIGN** is a message printed on such a shelter.

BANNER. Any sign of lightweight fabric or similar material with a printed message or graphic attached secured or mounted temporary or permanently from a structure in such a way as to allow wind movement.

BILLBOARD. Shall be any freestanding or attached structure with a face larger than 150 square feet, that advertise the sale or lease of property or advertise goods and/or services for sale on- or off-site shall be considered a **BILLBOARD** and shall only be allowed in an area outside the corporate limits of the city.

BUSINESS CENTER IDENTIFICATION SIGN. A sign that identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.

BUSINESS IDENTIFICATION SIGN. A sign that identifies a business located on the same premises upon which the sign is located.

CANOPY. A projecting non-movable structure cantilevered or suspended from a building, supported by the main structural members to which it is attached and used as a protective cover over a door, window, entrance or outdoor service area,

CANOPY SIGN. A sign that is attached or made an integral part of a canopy.

CLEARANCE. The distance from the bottom most edge of a sign face perpendicular to the grade below.

DETACHED SIGN. A sign that is self-supporting and structurally independent from any building.

DIRECTIONAL SIGN. A sign that serves solely to designate the location or direction of any area or place.

DOUBLE-FACED SIGN. A sign consisting of no more than two faces, no more than 42 inches apart at its widest point and supported by a single structure.

FREESTANDING SIGN. Any sign erected on a support structure other than a building. All freestanding and incidental signs greater than 20 square feet are subject to a plan submittal to the Building Official and/or a building permit.

FRONTAGE. The length of a property line of any one legal description abutting and parallel to a public street.

GARAGE SALE. A sale of used household items, clothing and/or personal property held at the home of the seller.

ILLUMINATION. Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.

INCIDENTAL SIGN. A sign that is incidental to and aids these functioning of a use, but which does not provide primary identification for the use. Examples of **INCIDENTAL SIGNS** include entrance and exit signs, directions to traffic, ATM or reader board, of which two **INCIDENTAL SIGNS** shall be allowed per primary sign structure. **INCIDENTAL SIGNS** to be attached to existing primary sign poles shall have in writing by reputable licensed sign company, verification of adequacy of pole and footings to support additional signage.

LEGAL NON-CONFORMING. Any sign or sign face already erected or standing that exceeds this chapter in size, height or dimension, shall be considered a **LEGAL NON-CONFORMING SIGN**; providing, it was compliant to all ordinances in place when constructed or erected.

MARQUEE. A permanent roofed structure attached to and supported by a building and extending over public right-of-way.

MAXIMUM PERMITTED SIGN AREA. The maximum permitted combined area of all signs allowed on a specific property.

MONUMENT SIGN. An on-premises freestanding sign with the appearance of a solid base.

MOVING SIGN. A sign that conveys its message through rotating, changing or animated elements

NON-CONFORMING SIGN. Any non-conforming sign in each residential, commercial, industrial or agricultural zone, that has been increased in size, had lights added or had its location changed shall lose its legal non-conforming rights and the city shall require the sign to be removed or reconstructed to meet current zoning regulations. A sign that was legally erected prior to the adoption of this section, but which violates the regulations of this chapter shall be considered as legal **NON-CONFORMING**.

ON-SITE. A sign which advertises the sale or lease of property upon which the sign is located or that advertises the sale of goods and services available on that property.

OFF-SITE. A sign that advertises a service or product obtainable at a location other than the premises that the sign is located on and shall only be allowed outside the city limits.

POLE SIGN. A sign built on a freestanding frame, mast or pole(s) with a ground clearance greater than six feet.

PORTABLE SIGN. Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.

PREMISES IDENTIFICATION SIGN. Any sign which pertains to the non-residential use of a premises and which contains information about the owner or operator of that use; the type of business being conducted or the principal brand name of a commodity sold on the premise; and other

information relative to the conduct of the use.

PREMISES. A tract of one or more lots or sites that are contiguous and under common ownership or control.

PRIMARY SIGN. Any business, premises or other identification sign, located on-site, that advertises goods, services or other items for sale, rent or lease, of which there shall only be one primary sign allowed per premises and/or business establishment.

PROJECTING SIGN. A sign other than a wall sign that is attached to and projects from a building face.

READER BOARD. Display sign face with changeable alphanumeric characters and shall be no greater than 32 square feet.

RESIDENTIAL SIGN (HOME OCCUPATION SIGN). A small wall sign mounted flat against the wall of the principle residential structure, conveying a message lawfully communicated by the owner of the property or used to identify home occupations, block parents, the name of the premises or the occupants thereof. **RESIDENTIAL SIGNS** are non-illuminated and non-reflecting signs and shall not exceed six square feet in area.

SIGN. A symbolic, visual device fixed upon a building, vehicle, structure or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate or political idea.

SIGN TYPE. A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message and temporary.

TEMPORARY SIGNS. A sign, flag, banner, pennant or valance constructed of lightweight materials which is not permanently attached to building or land, and which is intended for display for a period of time of no more than 14 days.

WALL SIGN. A sign attached to and parallel with the side of a building.
(2002 Code, § 18-346) (Ord. 2001-4, passed 6-12-2001)

§ 154.07 GENERAL SIGN AND STREET GRAPHICS REGULATIONS.

(A) *Compliance.* Each sign or part of a sign erected within the zoning jurisdiction of the city must comply with the provisions of this section and of other relevant provisions of this chapter. Any sign erected greater than 50 square feet, other than window or wall, shall be required to obtain a building permit before the sign is erected.

(B) *Resolution of conflicting regulations.* This section is not meant to repeal or interfere with enforcement of sections of the code. In cases of conflicts between the code, this section or state or federal regulations, the more restrictive regulations shall apply.

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(C) *Prohibited signs.* The following signs are prohibited in all zoning districts:

- (1) Signs painted on or attached to rocks, trees or other natural objects;
- (2) Signs or sign structures which resemble or conflict with traffic-control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard;
- (3) Signs on public property, including permanent, temporary and exempt signs, unless specifically authorized by the appropriate public agency;
- (4) Signs, which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals;
- (5) Abandoned/discontinued signs. Any sign must be removed within 12 months of date of abandonment by property owner(s);
- (6) Signs advertising activities that are illegal under federal, state or local laws and regulations;
- (7) Signs that are not clean or in substantial good repair, or are not affixed to a sound structure;
- (8) Signs which move or have animated or moving parts that are visible from the traveled highways of present and designated future alignments of State Highway 35 and State Highway 15;
- (9) Signs in officially designated scenic areas or parkland visible from the traveled way; and
- (10) Signs with wiring not in accordance with the National Electrical Code adopted and incorporated by reference in this code.

(D) *Permitted signs.* The following signs are permitted in any zoning district:

- (1) Real estate signs not exceeding six square feet. Real estate signs include signs advertising a property for sale or for rent; or displaying the name of the managing agency of a rental property;
- (2) Official signs authorized by a government or governmental subdivision that give traffic, directional or warning information;
- (3) Seasonal decorations for display on private or public property;
- (4) On-premises construction signs;
- (5) Works of graphic art painted or applied to building walls that contain no advertising or business identification messages;
- (6) Residential signs under six square feet in size;

(7) Street numbers;

(8) On-premises signs that advertise the sale of goods or services, provided in accordance with §§ 154.08 and 154.09 of this chapter, and in conformance with the State Department of Roads' rules and regulations (§ 154.08 of this chapter);

(9) Off-site signs in accordance with § 154.08 of this chapter, and size and height limitations specified in § 154.09 of this chapter outside of the city limits; and

(10) Incidental signs shall be no greater than two when attached to a primary sign structure subject to § 154.06 of this chapter.

(E) *Temporary and civic signs.*

(1) Temporary or portable signs for grand openings, sales, and special events are permitted in commercial and industrial zoning districts, subject to the following requirements:

(a) Such signs are subject to the building permit procedures set forth in this section;

(b) No more than one such sign is permitted at any single premises; and

(c) Temporary signs may be present at any single premises for a maximum of 14 consecutive days and a maximum of 30 days per year.

(2) Temporary signs for non-profit civic campaigns or events, political campaigns or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this chapter, subject to the following requirements:

(a) Such signs are subject to the building permit procedures set forth in this section;

(b) Such signs are installed no earlier than 30 days before the date of the event or election and removed no later than seven days after the date of the event or election; and

(c) Such signs shall be not more than ten square feet when located in residential districts and no more than 80 square feet in other zoning districts.

(3) Temporary signs for garage sales are only permitted on private property in any zoning district, subject to the following requirements:

(a) Such sign shall not be posted more than 48 hours before the sale and must be removed within 24 hours following the closing of the sale; and

(b) The duration of the sale shall be no longer than 72 consecutive hours from the start of the sale to the closing of the sale.

(2002 Code, § 18-347) (Ord. 2001-4, passed 6-12-2001)

§ 154.08 BASIC DESIGN ELEMENTS FOR ON-SITE AND OFF-SITE PREMISES SIGNS.

(A) *On- and off-site signs of interstate or federal-aid primary highways.* The erection or maintenance of any advertising sign, display or device which is visible to the traveled way of the National System of Interstate and Defense Highways, and the system of federal-aid primary roads of the state as defined by the State Department of Roads, is hereby prohibited unless in compliance with the regulations set forth within rules and regulations relating to the control of advertising in areas adjacent to the interstate and federal-aid primary highways; as amended, adopted and published by the State Department of Roads and made a part of these zoning regulations by reference.

(B) *Wall signs and graphics.* Wall signs and graphics are subject to the following general regulations.

(1) A wall sign must be parallel to the wall to which it is attached.

(2) A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.

(3) A wall sign may not extend beyond its buildings roofline.

(4) For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.

(2002 Code, § 18-348) (Ord. 2001-4, passed 6-12-2001) Penalty, see § 10.99

§ 154.09 OTHER DESIGN ELEMENTS.

(A) *Illuminations.*

(1) Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.

(2) Lighted signs in direct vision of a traffic signal shall not be illuminated in red, green or amber.

(B) *Marquees and marquee signs.* Signs placed on, attached to or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

(C) *Banners.*

(1) A banner sign projecting from a building may not exceed the wall height of the building.

(2) Maximum projection for any banner is five feet.

(3) Each banner sign must maintain at least the following vertical clearances:

(a) Eight feet, six inches over sidewalks;

(b) Ten feet for signs located outside of driveways or parking areas, but within three feet of such areas; or within 50 feet of the right-of-way lines formed by the intersection of two or more streets;

(c) Fourteen feet over parking lots; and

(d) Sixteen feet, six inches over alleys or driveways.

(4) Maximum size of a banner is 120 square feet.

(5) A banner must be removed within three days after event ends.

(D) *Clocks.* For the purpose of this chapter, clocks are not considered a moving sign.

(E) *Sign area, height and location of on-site signs.*

(1) Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.

(2) The area of double-faced signs is calculated on the largest single face only.

(3) Each primary sign shall have a maximum surface area of 150 square feet.

(4) The highest point of any sign on or along a federal-aid primary road of the state as defined by the State Department of Roads, shall not extend more than 40 feet measured from ground level at its supports.

(5) Each sign shall not be closer than 50 feet of a street intersection at grade, or within the sight triangle. (Refer to § 152.130 of this chapter.)

(F) *Height.* The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure, and shall not extend more than 40 feet to the highest point. This height shall only be allowed when sign is along or adjacent to a federal-aid primary highway of the state.

(G) *Setback.* The setback of a sign is measured from any property line to a line projected onto the ground of any component of the sign nearest such property line. All setbacks shall comply with standards established by the Federal Highway Administration and the State Department of Roads, along interstate or federal-aid primary highways, or established setbacks as outlined in zone erected.

(H) *Permit expiration.* If a sign is not constructed in accordance with an approved building permit within six months of the date of approval, such building permit shall lapse.
(2002 Code, § 18-349) (Ord. 2001-4, passed 6-12-2001)

§ 154.10 REPAIR OR MODIFICATION OF NON-CONFORMING SIGNS.

(A) *Non-conforming signs; modifications.* All permanent signs in place and in existence on the effective date of this section shall be considered as legal non-conforming signs. The copy area of such signs may be changed or the copy thereon replaced; provided, however, the sign area shall not be enlarged beyond the sign area of said sign on the effective date of this section.

(B) *Replacement of damaged non-conforming signs.* Any non-conforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than 50% of its original size, shall be either removed or altered so as to comply with this section.

(C) *Freestanding sign.* No more than one freestanding sign allowed on the premises.
(2002 Code, § 18-350) (Ord. 2001-4, passed 6-12-2001) Penalty, see § 10.99