

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;

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(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;

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(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 Astructure@ shall include the term Abuilding@.

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(B) *Lot*. The term *Alot@* includes the term *Aplot@* or *Aparcel@*.
(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.

AGRICULTURAL INDUSTRY. Establishments which include the storage, manufacture, sale, or distribution of agricultural supplies or products that create major external effects, including substantial truck or rail traffic and/or significant potential for hazard. Typical uses include grain elevators, storage of agricultural chemicals such as anhydrous ammonia. ***AGRICULTURAL INDUSTRIES*** do not include retailers of farm equipment or other, generally non-hazardous agricultural supplies.

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.)

ANIMAL PRODUCTION. The raising of animals or production of animal products, such as eggs or dairy products, on an agricultural or commercial basis, or the raising of animals for recreational/pleasure use. This use includes buildings used to house animals or store equipment necessary for animal production. Typical uses include grazing, ranching, dairy farming and poultry farming. The

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term shall include the confined feeding of animals.

(1) **FIRST CLASS ANIMAL PRODUCTION.** One animal unit is equivalent to one head of cattle or cow/calf pair.

(2) **SECOND CLASS ANIMAL PRODUCTION.** One animal unit is equivalent to: one head of cattle or cow/calf pair; one horse or horse/foal pair; one llama; one head of swine; one ostrich; one emu; five head of sheep and/or goats; three turkeys, ducks or geese; ten chickens.

(3) **THIRD CLASS ANIMAL PRODUCTION.** One animal unit is equivalent to: one head of cattle or cow/calf pair; one horse or horse/foal pair; one llama; one head of swine; one ostrich; one emu; three head of sheep and/or goats; two turkeys, ducks or geese; five chickens.

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.**

ATTACHED (for the purpose of determining when new construction constitutes enlarging a primary structure on a lot). Sharing a common wall which has an opening providing access between interior spaces. An enclosed passageway less than eight feet wide, connecting two structures, shall not mean the two structures are attached. A passageway equal to or greater than eight feet wide used to connect two structures shall not exceed a distance between the two structures that is twice the width of the passageway.

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.

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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.

BREEZEWAY. A narrow structure with a roof and no walls that connects two buildings. An accessory structure connected to a primary structure by a **BREEZEWAY** shall not be considered attached.

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.

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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

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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**.

CROP PRODUCTION. The raising, harvesting, and storing of tree crops, row crops, or field crops on an agricultural or commercial basis. This includes buildings used to store equipment necessary for crop production and bulk grain storage. This definition may include accessory retail sales under certain conditions.

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.

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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.

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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:

(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***.

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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.

GENERAL INDUSTRY. Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products from prepared materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.

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

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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.

HEAVY INDUSTRY. Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials, except for those uses defined as agricultural industries. This would include concrete mixing and concrete manufacturing/crushing.

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.

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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.

LIGHT INDUSTRY. Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, butcher shops, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

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.

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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.

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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.

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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.

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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.

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STABLES. Boarding, breeding or raising of horses, llamas, or other hooved animals which are not owned by the occupants of the premises; or for the purpose of riding animals included in this definition by members of the public other than the occupants of the premises or their nonpaying guests. Typical uses include boarding stables or public stables.

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. Each dwelling unit shall be on its own lot and shall have its own front and rear access to the outside. 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.

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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,

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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; Ord. 2013-1, passed 4-2-2013; Ord. 2014-14, passed 6-17-2014; Ord. 2014-16, passed 6-17-2014; Ord. 2014-15, passed 7-1-2014; Ord. 2015-14, passed 4-21-2015; Ord. 2015-29, passed 6-16-2015)

§ 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)

§ 152.012 PLANNING COMMISSION.

(A) *Members.* The Planning Commission shall consist of nine members who shall be appointed by the Mayor, by and with the approval of a majority vote of the Council. Two of such members may be residents of the area over which the city is authorized to exercise extraterritorial zoning and subdivision

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regulations. All members of the Commission shall serve as such without compensation and shall hold no other office, except when appointed to serve on the Board of Adjustment. The term of each member shall be three years, and three members shall be appointed or reappointed each year. All members shall hold office until their successors are appointed. All members may, after a public hearing before the Council, be removed by the Mayor, by and with the consent of a majority vote of the Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor. (2002 Code, § 2-441)

(B) *Organization; meeting; rules; records.*

(1) The Planning Commission shall elect its Chairperson from its members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year and he or she shall be eligible for reelection. The Commission shall hold at least one regular meeting in each month except that the Council may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with pending business, and it shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which records shall be of public record and filed with the City Clerk. All actions by the Commission shall be subject to the review and supervision of the Council. The Commission shall be responsible for making such reports and performing such other duties as the Council may designate.

(2) The Council may provide the funds, equipment and accommodations necessary for the work of the Commission; but the expenditures for the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Council; and no expenditures or agreements for expenditures shall be valid in excess of such amounts. (2002 Code, § 2-442)

(C) *Purpose and duties.*

(1) It shall be the function and duty of the Planning Commission to make and adopt plans for the physical development of the city, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the city, including a Comprehensive Development Plan, to prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes and zoning ordinances in cooperation with other interested city departments and consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and implement its programs. The Commission shall have the power to conduct studies, make surveys, make preliminary reports on its findings and hold public hearings before submitting final reports.

(2) The city shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory or zoning until it has received the recommendation of the Planning Commission. A recommendation from the Planning Commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or

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easements is involved and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the city has designated, by ordinance, an agent pursuant to Neb. RS 19-916.

(3) The Commission may, with the consent of the Council, in its own name:

- (a) Make and enter into contracts with public or private bodies;
- (b) Receive contributions, bequests or gifts, or grant funds from public or private sources;
- (c) Expend the funds appropriated to it by the city;
- (d) Employ agents and employees; and
- (e) Acquire, hold and dispose of property.

(2002 Code, § 2-443)

(Ord. 2009-8, passed 4-21-2009)

Statutory reference:

Authority to create a planning Commission, see Neb. RS 19-925

Related provisions, see Neb. RS 19-926 through 19-929

§ 152.013 BOARD OF APPEALS.

(A) *Application for appeal.* Any person directly affected by a decision of the Code Official or a notice or order issued under the International Property Maintenance Code, the International Building Code, International Residential, Plumbing, Mechanical and Energy Conservation Codes and Flood Plain Regulation 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. 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.

(B) *Board.*

(1) *Membership of Board.* The Board of Appeals shall consist of a minimum of six members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The Code Official shall be an ex-officio member, but shall have no vote on any matter before the Board. The Board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

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(2) *Alternate members.* The chief appointing authority shall appoint two or more alternate members who shall be called by the Board Chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for Board membership.

(3) *Chairperson.* The Board shall annually select one of its members to serve as Chairperson.

(4) *Disqualification of member.* A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(5) *Secretary.* The chief administrative official shall designate a qualified person to serve as Secretary to the Board. The Secretary shall file a detailed record of all proceedings in the office of the Chief Administrative Officer.

(6) *Compensation of members.* Compensation of members shall be determined by law.

(C) *Notice of meeting.* The Board shall meet upon notice from the Chairperson, within 20 days of the filing of an appeal, or at stated periodic meetings.

(D) *Open hearing.* All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership. The Board shall adopt and make available to the public, through the Secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(E) *Postponed hearing.* When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(F) *Board decision.* The Board shall modify or reverse the decision of the Code Official only by a concurring vote of the total number of appointed Board members.

(G) *Records and copies.* The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

(H) *Administration.* The Code Official shall take immediate action in accordance with the decision of the Board.

(I) *Court review.* Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law.

(J) *Stays of enforcement.* Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Appeals Board. (2002 Code, § 2-481) (Ord. 2010-12, passed 7-12-2010)

Zoning

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:

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AThis 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: AOn (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:

AThis 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)

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§ 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)

Wayne - Land Usage**§ 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)

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(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in an A-1 District:

- (1) Ranch and farm dwellings;
- (2) Crop production;
- (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;

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- (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) First class animal production;
- (21) Auto sales and services, including open air display of new or used vehicles;
- (22) Repair garages, automobile service stations and major body repair;
- (23) Industrial trades, including mechanical neat and air conditioning; carpenter shops, cabinet shops, plumbing shops and electrical shops; and light fabrication and equipment repair;

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(24) Heavy industry, provided that the use is not located within 1,000 feet of any existing residential structure; and

(25) Stables.
(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.

(3) For first class animal production, there shall be no more than 999 animal units on any parcel, and any lagoon or confined feeding yard must be at least 1,000 feet from any residential dwelling located on another parcel.

(4) For stables, there shall be:

(a) No more than two animals per acre allowed outside of an enclosed building at any given time, with a maximum limit of 40 animals.

(b) No structure housing animals, or storing or composting manure, or any open area used for grazing, loafing, or spreading manure within 100 feet of any property line which borders the city limits, any R District, or any A District.

(c) No structure housing animals, or storing or composting manure, or any open area used for grazing, loafing, or spreading manure within 300 feet of a residential dwelling on another property when there are more than 15 animals associated with the use as a stable.

(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>

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<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)

(K) *Permitted conditional uses.*

(1) A building or premises in an A-1 District may be used for the following in conformance with the prescribed conditions.

(2) Second class animal production:

(a) Where the parcel is adjacent to the city limits or any R District:

1. Two animal units per acre, not to exceed 40 animal units.
2. No more than four of those animal units may consist of turkeys, ducks and geese combined.
3. No more than four of those animal units may consist of chickens.
4. Any structure housing animals, or storing or composting manure, and any open area used for grazing, loafing, or spreading manure shall be at least 100 feet from any property line which borders the city limits or any R District, and at least 300 feet from a residential dwelling on another property.

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(b) Where the parcel is not adjacent to the city limits or any R District, and is less than 40 acres in size:

1. Two animal units per acre, not to exceed 40 animal units.
2. No more than ten of those animal units may consist of turkeys, ducks and geese combined.
3. No more than ten of those animal units may consist of chickens.
4. Any structure housing animals, or storing or composting manure, and any open area used for grazing, loafing, or spreading manure shall be at least 100 feet from any property line which borders the city limits or any R District, and at least 300 feet from a residential dwelling on another property.

(c) Where the parcel is not adjacent to the city limits or any R District, and is at least 40 acres in size:

1. Two animal units per acre.
2. No more than 20 of those animal units may consist of turkeys, ducks and geese combined.
3. No more than 20 of those total animal units may consist of chickens.
4. Any structure housing animals, or storing or composting manure, and any open area used for grazing, loafing, or spreading manure shall be at least 100 feet from any property line which borders the city limits or any R District, and at least 300 feet from a residential dwelling on another property.

(Ord. 93-11, passed 9-28-1993; Ord. 2000-9, passed 5-30-2000; Ord. 2001-15, passed 10-9-2001; Ord. 2013-2, passed 4-2-2013; Ord. 2015-15, passed 4-21-2015; Ord. 2015-16, passed 4-21-2015; Ord. 2015-17, passed 4-21-2015; Ord. 2015-30, passed 6-16-2015; Ord. 2015-31, passed 6-16-2015; Ord. 2015-18, passed 4-21-2015)

§ 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.

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(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) Crop production;
- (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;
- (7) Public and/or private schools; and
- (8) Structures that would be considered accessory structures if there was a dwelling on the premise.

(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;

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- (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)

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(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)

(J) *Permitted conditional uses.*

(1) A building or premises in an A-2 District may be used for the following in conformance with the prescribed conditions.

(2) Third class animal production:

(a) Where the parcel is adjacent to the city limits or any R District and is over three acres in size:

1. One animal unit per every acre over three acres plus two animal units.
2. No more than 15 animal units.
3. Any structure housing animals, or storing or composting manure, and any open area used for grazing, loafing, or spreading manure shall be at least 100 feet from any property line which borders the city limits or any R District and at least 25 feet from any property line.
4. No more than two animal units may consist of swine.

(b) Where the parcel is not adjacent to the city limits or any R District and is over three acres in size:

1. One animal unit per every acre over three acres plus two animal units.
2. No more than 30 total animal units.
3. No more than two animal units may consist of swine.
4. Any structure housing animals, or storing or composting manure, and any open area used for grazing, loafing, or spreading manure shall be at least 25 feet from any property line which does not border the city limits or any R District that has a residential dwelling on it.

(c) Where the parcel is three acres or less:

1. Two animal units.
2. Any structure housing animals or any confined area must be at least 100 feet from any property line which borders the city limits or any R District.
3. Any structure housing animals, or storing or composting manure, and any open

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area used for grazing, loafing, or spreading manure shall be at least 25 feet from any property line which does not border the city limits or any R District that has a residential dwelling on it.

(Ord. 93-11, passed 9-28-1993; Ord. 2002-1, passed 2-12-2002; Ord. 2013-52, passed 12-3-2013; Ord. 2015-19, passed 4-21-2015; Ord. 2015-20, passed 5-5-2015)

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;

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(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.

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(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

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<i>Area Regulations</i>	<i>Dwelling, Two-Family</i>	<i>Townhouse</i>
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)

(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)

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§ 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) Townhouses;
- (4) Public and private schools;
- (5) Public parks, buildings and grounds;
- (6) Community buildings owned and/or occupied by public agencies;
- (7) Child care homes; and
- (8) 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:

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(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;

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(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>Other Permitted Uses</i>
Height (in feet)	35	35	35	35
Lot area (in square feet)	7,000 square feet	3,000 per family	3,000 per unit	3,000
Lot width (in feet)	60	30 per family	30 per unit	60
Required front yard (in feet)	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
Required side yard (in feet)	5	5 if party wall	5 if party wall	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.

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(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; Ord. 2013-40, passed 9-17-2013)

§ 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 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) Townhouses;

(4) Public and private schools;

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- (5) Public parks, buildings and grounds;
- (6) Child care homes;
- (7) Community buildings owned and/or occupied by public agencies; and

(8) 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

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1,000 square feet of lot area.

(3) For a multi-family dwelling:

(a) The maximum number of sleeping rooms shall not exceed one per 750 square feet of lot area;

(b) The front of the building facing the street shall include one of the following:

1. A door and 8% of the surface area covered with windows; and
2. Ten percent of the surface area covered with windows.

(c) The primary means of egress for any dwelling unit shall not exit into a side yard unless the door is at least 30 feet from the property line it is facing;

(d) The primary means of egress must exit onto a covered stoop or deck; and

(e) Twenty percent of the lot must be maintained as landscaping which is not paved or used for parking.

(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;

(7) Funeral homes and funeral chapels;

(8) Child care centers;

(9) Parking lots;

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(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	500 per sleeping room	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

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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; Ord. 2013-40, passed 9-17-2013; Ord. 2014-36, passed 3-17-2015)

§ 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;

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(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. For multi-family dwellings, the area may exceed these limits, provided the area above these limits is for tenant use only. The total area of accessory structures for multi-family dwellings shall not exceed 300 square feet per sleeping room; 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

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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; Ord. 2015-41, passed 9-15-2015)

§ 152.065 R-5 RESIDENTIAL DISTRICT.

Zoning

(A) *Intent.* The R-5 District is designed to provide high density living areas that promote multiple family dwellings.

(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) Two-family dwellings;
- (2) Child care center;
- (3) Public and private schools;
- (4) Public or private parks, buildings and grounds;
- (5) Community buildings owned and/or occupied by public agencies; and
- (6) Multi-family dwellings.

(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;

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(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) *Parking regulations.* Parking in an R-5 District shall be in conformance with the provisions of § 152.139.
(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, Multiple-Family</i>	<i>Dwelling, Two-Family</i>	<i>Other Permitted Uses</i>
Height (in feet)	35	35	35
Lot area (in square feet)	375 per sleeping room	2,000 per family	5,000
Lot width (in feet)	40	20 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.

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(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) *Sign regulations.* All signs in an R-5 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142.

(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; Ord. 2015-3, passed 2-17-2015; Ord. 2015-4, passed 2-17-2015; Ord. 2015-5, passed 2-17-2015; Ord. 2015-6, passed 2-17-2015; Ord. 2015-7, passed 2-17-2015)

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, 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;

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(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) 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;

(v) Restaurants, eating establishments, cafés and food services, subject to division (E) below;

(w) 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;

(x) Service stations;

(y) Stores or shops for the sale of goods at retail;

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(z) Taverns and nightclubs;

(aa) Theaters;

(bb) Transportation warehousing; and

(cc) 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

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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,

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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;

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(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.

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(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)

(M) *Permitted condition uses.*

(1) A building or premises in a B-1 District may be used for the following in conformance with the prescribed conditions.

(2) Crop production: Not including any agricultural related buildings that include but are not limited to structures used to store grain or house animals.

(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; Ord. 2015-21, passed 4-21-2015; Ord. 2015-22, passed 4-21-2015)

§ 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:

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- (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;
- (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);

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- (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;

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(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;

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- 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 a 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;

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(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)

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(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

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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

(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:

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- (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

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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:
 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;

Zoning

(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 a 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;

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(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.

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(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.

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(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 35 feet in height, subject to the provisions and in conformance with airport zoning regulations.
(2002 Code, § 90-429; Ord. No. 2017-18, §, 5-16-2017)

(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)

(L) *Permitted conditional uses.*

(1) A building or premises in a B-3 District may be used for the following in conformance with the prescribed conditions.

(2) For a multi-family dwelling.

(a) The maximum number of sleeping rooms shall not exceed one per 500 square feet of lot area.

(b) The front of the building facing the street shall include one of the following:

1. A door and 8% of the surface area covered with windows.

2. Ten percent of the surface area covered with windows.

(c) The primary means of egress for any dwelling unit shall not exit into a side yard unless the door is at least 30 feet from the property line it is facing.

(d) The primary means of egress must exit onto a covered stoop or deck.

(e) Twenty percent of the lot must be maintained as landscaping which is not paved or used for parking.

(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; Ord. 2014-24, passed 8-19-2014)

Zoning

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) Crop production;
- (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;

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- (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;

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- (31) Public utility and public service uses;
- (32) Repair of electronics;
- (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;

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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

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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.

(46) Light industry; and

(47) General industry.
(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;

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(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.

(5) Heavy industry, provided that the entire property is not located within 500 feet of the following:

(a) 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

(b) Any park, children's playground area or youth sports complex including a community

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activity center and a recreation trail; or

(c) A property line of any lot located in a residential district; and

(6) Agricultural industry.

(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;

(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)

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(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; Ord. 2013-3, passed 4-2-2013; Ord. 2013-4, passed 4-2-2013; Ord. 2015-23, passed 4-21-2015)

§ 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

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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) Crop production;
- (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;
- (17) Foundries;
- (18) Freight and truck services;
- (19) Frozen food lockers;

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- (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;

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- (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;
- (55) Wholesale sales and services;
- (56) Agricultural industry;
- (57) Light industry;
- (58) General industry; and
- (59) Heavy industry, provided that the entire property is not located within 500 feet of the following:
 - (a) 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;

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(b) Any park, children's playground area or youth sports complex including a community activity center and a recreational trail; or

(c) A property line of any lot located in a residential district.
(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;

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- (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

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<i>Minimum Area Regulations</i>	
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; Ord. 2013-5, passed 4-2-2013; Ord. 2015-24, passed 4-21-2015)

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.*

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(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:

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(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

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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

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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:

(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.

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(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

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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;

(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;

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(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

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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 Amanufactured 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.

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(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 19-912.

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(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.

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(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

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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, being Neb. RS 31-1001 to 31-1023.

(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

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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 Aflooding@.)

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:

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(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

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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), being 16 USC 3501 et seq., 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

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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 Ahistoric structure@; provided that, the alteration will not preclude the structure's continued designation as a Ahistoric 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:

1. The name and address of the applicant;
2. Lot dimensions and legal description of the property;

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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.

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(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.

Zoning

(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 AWayne 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

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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 within city limits 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.

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(2002 Code, § 90-641)

(B) *Purposes.* Some specific purposes of the planned development procedure are:

(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

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physical plan;

(c) To encourage recreational facilities within industrial areas; and

(d) To buffer adjacent residential areas with landscaped green spaces.

(2002 Code, § 90-642)

(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

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(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

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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; Ord. 2013-51, passed 12-17-2013)

§ 152.114 BUILDING LINE DISTRICT.

(A) *Limitation on building.* On those streets and highways shown on the AWayne 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)

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(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

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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

Zoning

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;

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(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)

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(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:

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(1) *Local*
of intersecting street)

streets. (75 feet from centerline

(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.

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(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.

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(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, except as allowed in § 152.064(C) for multi-family uses in an R-4 District.

(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.

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(I) *Storage containers.* Storage containers shall not be allowed as accessory structures but are allowed as temporary structures under § 152.136.

(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; Ord. 2015-40, passed 8-18-2015; Ord. 2015-41, passed 9-15-2015)

§ 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)

Wayne - Land Usage**§ 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.*

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(1) Off-street motor vehicle parking and loading space shall be provided on any lot, or the terrace adjacent to the 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, or the terrace adjacent to the 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. Non-residential uses in the B-2 District shall be exempt from these parking and loading requirements.

(2) For purposes of this division, terrace parking shall be considered off-street parking.

(3) Any corner lot located in a residential zoning district shall only use the terrace adjacent to one of the lot's front yards for terrace parking. Terrace parking constructed before May 1, 2013 or designed through a building permit approved by May 1, 2013 shall be exempt from this restriction on a corner lot.

(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.

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(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 a nine-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

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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

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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;

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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 reposing 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

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<i>Structures and Uses</i>	<i>Minimum Off-Street Parking Regulations</i>	<i>Minimum Off-Street Loading Requirements</i>
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
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; Ord. 2013-29, passed 6-18-2013; Ord. 2014-37, passed 12-16-2014)

§ 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,

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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

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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,

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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.

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(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, other than concrete crushing, 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

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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; Ord. 2013-7, passed 4-2-2013)

§ 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.

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(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

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(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.

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(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. Any work completed under authorization of this division must comply with division (C) of this section.

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(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; Ord. 2014-12, passed 6-3-2014)

§ 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.

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(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.

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(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

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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 BOARD OF ADJUSTMENT.

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The Council shall appoint the Board of Adjustment, which shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member of the Board shall serve a term of three years unless reappointed and shall be removable only for good and sufficient cause by the Council upon written charges and after a public hearing. The members of the Board shall serve without compensation and may be required, in the discretion of the Council, to give a bond in a sum set by resolution of the Council and conditioned upon the faithful performance of their duties. One member of the Board of Adjustment shall be at the same time a member of the Planning Commission at all times. Upon the loss of membership on the Planning Commission, the member shall also lose his or her membership on the Board of Adjustment. After 9-9-1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area, The Board shall organize at its first meeting in June of each year and elect from its membership a Chair and Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings and to file them at the office of the City Clerk for examination at any reasonable time by the public. The Board of Adjustment shall be funded out of the General Fund by the Council. The Board of Adjustment shall adopt rules in accordance with the provisions of a duly adopted zoning ordinance. Meetings of the Board shall be held at such times as the Council may designate, or at such other times as the Chair may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. It shall be the duty of the Board to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by a city official based on any zoning ordinance of the city; to hear and decide in accordance with the provisions of any zoning ordinance, requests for interpretation of any map; and authorize a variance from the strict application of any zoning ordinance if it is found that a specific piece of property, due to exceptional specifications existing at the time of passage of the ordinance, would result in exceptional difficulties and undue hardship. No variance shall be granted if the undue hardship appears to affect the property in the district generally, or if the situation of the property concerned appears to be so general or recurring in nature as to make reasonably practicable, the formulation of a general regulation to be adopted by the Council as an ordinance. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination made by a city official on any matter which was governed by any city zoning ordinance. The Board shall be responsible for making such reports and performing such other duties as the Council may designate. No member of the Council shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chair and Secretary of the Board.

(2002 Code, § 2-341)

Statutory reference:

Authority to provide for a board of adjustment, see Neb. RS 19-907

Related provisions, see Neb. RS 19-908 through 19-910

§ 152.177 APPEALS TO BOARD OF ADJUSTMENT.

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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)

§ 152.178 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;

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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)

§ 152.179 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.

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(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)

§ 152.180 BOARD HAS POWERS OF ADMINISTRATIVE OFFICER ON APPEALS; REVERSING DECISION OF ADMINISTRATIVE OFFICER.

(A) In exercising the powers mentioned in § 152.178 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)

§ 152.181 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.**

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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.

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(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.

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(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.

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(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):

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(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)

Wayne - Land Usage**§ 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)

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§ 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)

Wayne - Land Usage***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.

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(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)

Wayne - Land Usage**§ 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)

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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.

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(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)