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**ARTICLE 1: TITLE AND PURPOSE**

**Section 1.01 Title** This Ordinance may be known and may be cited and referred to as the Zoning Ordinance of the City of Wahoo, Nebraska.

**Section 1.02 Purposes** This ordinance has been made in accordance with a comprehensive plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

**ARTICLE 2: DEFINITIONS**

**Section 2.01 Rules** For the purpose of this ordinance the following rules shall apply:

- 2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
- 2.01.03 The word "shall" is mandatory.
- 2.01.04 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.01.05 The word "commission" shall refer to the Planning Commission of Wahoo, Nebraska.
- 2.01.06 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

**Section 2.02 Abbreviation and Acronyms**

For purposes of this Ordinance, the following shall be standard abbreviations and acronyms found through the regulation.

- 2.02.01 AU = Animal Unit
- 2.02.02 CAFO = Confined Animal Feeding Operation
- 2.02.03 FCC = Federal Communication Commission
- 2.02.04 FT = Foot or Feet
- 2.02.05 GIS = Geographic Information System
- 2.02.06 kV = Kilovolt
- 2.02.07 kW = Kilowatt
- 2.02.08 LFO = Livestock Feeding Operation
- 2.02.09 NDA = Nebraska Department of Aeronautics or successor department
- 2.02.10 NDEQ = Nebraska Department of Environmental Quality or successor department
- 2.02.11 NSFMS = Nebraska State Fire Marshall or successor department
- 2.02.12 NHHS = Nebraska Department of Health and Human Services or successor department
- 2.02.13 NDOR = Nebraska Department of Roads or successor department
- 2.02.14 R.O.W. = right-of-way or rights-of-way
- 2.02.15 SF = Square Feet
- 2.02.16 SY = Square Yard
- 2.02.17 USDA = United States Department of Agriculture
- 2.02.18 YD = Yard

**Section 2.03 Definitions.**

- 2.03.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.03.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley
- 2.03.03 **ACADEMIES** shall mean education and instruction facilities including but not limited to dance or music academies, gymnastic, or martial arts schools. Academies shall not include early childhood care facilities, public schools, or private schools that meet the State of Nebraska requirements for elementary or secondary education, or industrial trade schools.
- 2.03.04 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.

- 2.03.05 **ACCESSORY BUILDING** see “Building, Accessory”.
- 2.03.06 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 2.03.07 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure. Accessory structures are not intended to be used for any type of dwelling unit.
- 2.03.08 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 2.03.09 **ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.
- 2.03.10 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".
- 2.03.11 **ADULT BOOKSTORE** See Section 7.26
- 2.03.12 **ADULT CABARET** See Section 7.26 Adult Establishment
- 2.03.13 **ADULT COMPANIONSHIP ESTABLISHMENT** See Section 7.26
- 2.03.14 **ADULT DAY SERVICE** shall mean a facility as defined and licensed by the Nebraska Department of Health and Human Services, which provides care and an array of social, medical or other support services for a period of less than 24 consecutive hours in a community-based group program to four or more persons who require or request such services due to age or functional impairment. Adult Day Service does not include services provided under the Developmental Disabilities Services Act.
- 2.03.15 **ADULT ESTABLISHMENT** See Section 7.26.
- 2.03.16 **ADULT MASSAGE PARLOR, HEALTH CLUB** See Section 7.26
- 2.03.17 **ADULT MINI-MOTION PICTURE THEATER** See Section 7.26
- 2.03.18 **ADULT MOTION PICTURE ARCADE** See Section 7.26 Adult Arcade
- 2.03.19 **ADULT MOTION PICTURE THEATERS** See Section 7.26
- 2.03.20 **ADULT NOVELTY BUSINESS** See Section 7.26
- 2.03.21 **ADULT SAUNA** See Section 7.26
- 2.03.22 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.
- 2.03.23 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- 2.03.24 **AGRICULTURE** shall mean the growing of field crops, fruit, vegetables, nursery stock and other feed grains, truck gardening; forest and forest products; horticulture; raising and grazing of livestock and

poultry; animal husbandry; dairy farms; animal kennels; furbearing animals; processing and selling of products produced on the premises, not including, confined feeding of livestock, or packing and rendering plants.

- 2.03.25 **AGRICULTURE, PROCESSING FACILITY** shall mean a plant or establishment where value is added to agricultural commodities through processing, fabrication, or other means and where 80 percent or more of the direct sales from the facility are to other than the ultimate consumer of the processed commodity.
- 2.03.26 **AIRPORT** shall mean 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 tie-down areas.
- 2.03.27 **ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
- 2.03.28 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.
- 2.03.29 **ALTERATION, STRUCTURAL** see “Structural Alteration”.
- 2.03.30 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.
- 2.03.31 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.
- 2.03.32 **ANIMAL HOSPITAL** shall mean a facility dedicated to treatment of animals, including, cats, dogs, bovine, swine, and other domestic and agricultural animals.
- 2.03.33 **ANIMALS, DOMESTIC** see “Household Pet”.
- 2.03.34 **ANIMALS, PROHIBITED** shall mean animals kept generally for agricultural purposes, or are exotic, unusual or wild in their nature, as is more fully explained with Section 96.02 of the Municipal Code.
- 2.03.35 **ANIMAL UNIT (A.U.)** are defined as follows:  
 One (1) A.U.= One (1) Cow/Calf combination  
 One (1) A.U.= One (1) Slaughter, Feeder Cattle;  
 One (1) A.U.= One (1) Horses or Donkeys;  
 One (1) A.U.= One (1) Mature Dairy Cattle;  
 One (1) A.U.= One (1) Swine, Weaned Pigs, Sows with litters;  
 One (1) A.U.= Five (5) Sheep;  
 One (1) A.U.= Five (5) Goats;  
 One (1) A.U.= Ten (10) Laying Hens or Broilers, or other fowl;  
 One (1) A.U.= Ten (10) Turkeys;  
 One (1) A.U.= Ten (10) Domesticated Ducks and/or Geese.  
 One (1) A.U.= One(1) Exotic Animals (Llama, Ostrich, Emu)
- 2.03.36 **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
- 2.03.37 **ANTIQUÉ SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old.

- 2.03.38 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. Also see “Dwelling Unit”.
- 2.03.39 **APARTMENT HOUSE** see “Dwelling, Multiple”.
- 2.03.40 **APPEARANCE** shall mean the outward aspect visible to the public.
- 2.03.41 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.
- 2.03.42 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.03.43 **ARCHITECTURAL CANOPY SIGN** see “Sign, Architectural Canopy”
- 2.03.44 **ARCHITECTURAL CHARACTER** see “Architectural Concept”
- 2.03.45 **ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development that produces the architectural character.
- 2.03.46 **ARCHITECTURAL FEATURE** shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.
1. **LINES** shall mean visual elements of the building, either within the façade or on the building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.
  2. **MASS** shall pertain to the volume, bulk of a building or structure.
  3. **TEXTURE** shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.
- 2.03.47 **ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.
- 2.03.48 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.
- 2.03.49 **ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.
- 2.03.50 **ASSISTED-LIVING FACILITY** shall mean a facility as defined and licensed by the Nebraska Department of Health and Human Services where shelter, food, and care are provided for remuneration for a period of more than 24 consecutive hours to four or more persons residing at such facility who require or request such services due to age, illness, or physical disability.
- An assisted-living facility does not include a home, apartment or facility where:
- a. Casual care is provided at irregular intervals, or
  - b. A competent person residing in such home, apartment, or facility provides for or contracts for his or her own personal or professional services if no more than 25% of persons residing in such home, apartment, or facility receive such services.
- An assisted-living facility is not a nursing home and cannot provide complex nursing interventions.
- 2.03.51 **ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.



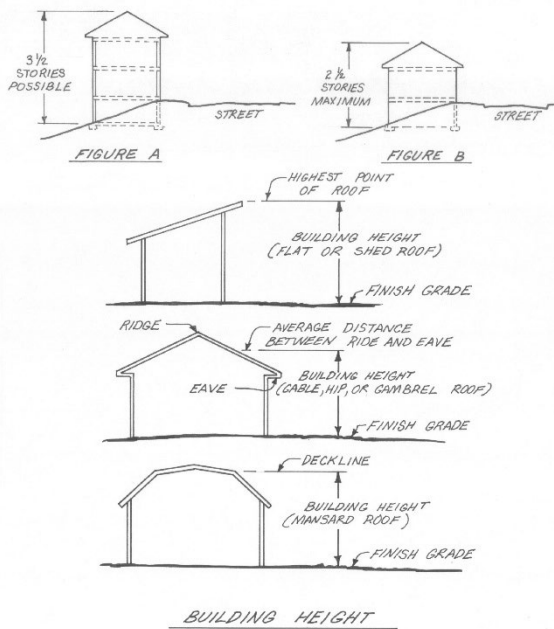
- 2.03.52 **AUTOMOBILE FILLING STATION** shall mean an establishment engaged in the dispensing or sales of fuel for automotive and light trucks and may additionally sell convenience items. Also see “Convenience Store”
- 2.03.53 **AUTOMOBILE SERVICE STATION** shall mean an establishment engaged in repair and/or servicing of automobiles and light truck; retail dispensing or sales of vehicular fuels; and the sale and installation of lubricants, tires, batteries and similar vehicle accessories.
- 2.03.54 **AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.
- 2.03.55 **AUTOMOBILE WRECKING YARD** shall mean 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.
- 2.03.56 **BALLROOM** shall mean a place or hall used for dancing, other than those listed under the definition of “Adult Cabaret”. Ballrooms shall also be used for reunions, weddings and receptions.
- 2.03.57 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Also see “Nightclub”.
- 2.03.58 **BASE FLOOD** shall mean any depression two feet or more below the land which serves to give direction to a current of water less than nine months of the year, and which has a bed and well-defined bank.
- 2.03.59 **BASEMENT** shall mean that portion of a building having more than one-half of its height below grade. This portion is not a completed structure and serves as a substructure or foundation for the remainder of the building.
- 2.03.60 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- 2.03.61 **BED and BREAKFAST INN** shall mean any place of lodging that provides rented rooms to 10 or fewer people that is the personal residence of the owner, that is occupied by the owner at the time of the rental, and in which the only meal served to renters is breakfast. All bed and breakfast establishments shall meet the requirements for bed and breakfast facilities of the Nebraska State Fire Marshal, the Nebraska Department of Health and Human Services, and any and all other governmental agencies having appropriate jurisdiction.
- 2.03.62 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
- 2.03.63 **BEER GARDEN** shall mean an outdoor area included in licensed premises of a tavern, bar, or brewpub, which is used for the service and consumption of alcoholic liquors, and which is contained by a fence or wall preventing the uncontrolled entrance or exit of persons from the premises, and preventing the passing of alcoholic liquors to persons outside the premises. The tavern, bar, or brewpub must obtain and meet conditions of a Beer Garden Permit as outlined in Municipal Code. Said outdoor area shall not exceed seventy-five percent (75%) of the gross floor area of the adjoining licensed structure.
- 2.03.64 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.03.65 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.03.66 **BIG BOX RETAIL STORE** shall mean a singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area, typically requires high parking to building area ratios and has a regional sales market Regional retail/wholesale sales can include, but are not limited to, membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

- 2.03.67 **BILLBOARD** shall mean the same as "Advertising Structure".
- 2.03.68 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, City-County boundaries, or adjoining property lines, or a combination thereof.
- 2.03.69 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.
- 2.03.70 **BOARD OF ADJUSTMENT** shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
- 2.03.71 **BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five guests, where lodging is provided with or without meals for compensation.
- 2.03.72 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sell of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.
- 2.03.73 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.
- 2.03.74 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
- 2.03.75 **BREWERY, CRAFT** shall mean a brew pub or a microbrewery.
- 2.03.76 **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
- 2.03.77 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered broadcast towers.
- 2.03.78 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. Also see "Screening".
- 2.03.79 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
- 2.03.80 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.
- 2.03.81 **BUILDING ACCESSORY** shall mean any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

- 2.03.82 **BUILDING, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
- 2.03.83 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires Building Permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the officially adopted codes of the State of Nebraska and the City of Wahoo, and other codes adopted by the City that pertain to building construction.
- 2.03.84 **BUILDING GROUPINGS** shall mean for the purpose of the side yard regulation, a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

All ground under the building shall be maintained in common ownership by the original owner or a business owners association. The same association shall control the condition of all facades of the building/structure. The overall building/structure shall meet the minimum setbacks of the zoning district. All sight triangles shall be met on corner lots. All uses to be located in such building/structure shall comply with permitted uses within the zoning district; conditional uses occupying the structure must apply for a conditional use permit. The storage of any inventory parts, or other material needed for the allowable uses shall be maintained within the structure itself and not outside on the property. All intermediate walls shall meet the City's building codes for fire separation.

- 2.03.85 **BUILDING, HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within five feet horizontal distance at the exterior wall of the building.



- 2.03.86 **BUILDING INSPECTOR** shall mean the individual appointed and/or employed by the City to enforce the prescribed and adopted building codes for the City.
- 2.03.87 **BUILDING, PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. (Also, see Principal Use.)

- 2.03.88 **BUILDING SETBACK LINE** shall mean a line parallel, or nearly parallel, to the street line indicating the minimum of distance as prescribed by the zoning regulations between any property line and the closed point of the building line or face of any building or structure related thereto, including all overhangs.

- 2.03.89 **BUSINESS OFFICE** shall mean any office environment dealing with the administrative activities of any service, retail, or manufacturing activity.

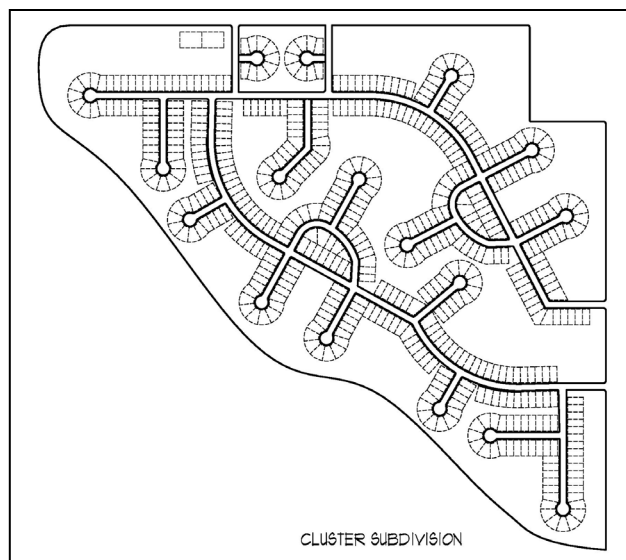
- 2.03.90 **CAMPGROUND, COMMERCIAL** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles, but not including mobile home parks, permanent mobile homes, or camping cabins and which the primary purpose is recreational, having open areas that are natural in character.

- 2.03.91 **CAMPGROUND, COMMERCIAL CABIN** shall mean a parcel of land intended for the temporary occupancy of camping cabins, which shall not include mobile home parks or permanent mobile homes, and which the primary purpose is recreational, having open areas that are natural in character.
- 2.03.92 **CAMPING CABIN** shall mean a small cabin located within a commercial cabin campground that is intended for temporary shelter, and includes sleeping quarters, in all cases a full bathroom, but kitchens are optional.
- 2.03.93 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.
- 2.03.94 **CARPORT** shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.
- 2.03.95 **CELLAR** shall mean a building space having more than one-half of its height below the average adjoining grade lines.
- 2.03.96 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
- 2.03.97 **CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainageway.
- 2.03.98 **CHARITABLE** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
- 2.03.99 **CHILD CARE** shall mean the provision of care as follows:
1. To four or more children under age 13 at any time families other than that of the provider;
  2. For on the average of less than 12 hours per day;
  3. For compensation, either indirect or direct;
  4. On a regular basis; and
  5. By a person other than their parents/guardians.
- 2.03.100 **CHILD CARE CENTER** shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
- 2.03.101 **CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.
- 2.03.102 **CITY** shall mean the City of Wahoo.
- 2.03.103 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. Also see "Sight Triangle".

2.03.104 **CLINIC** shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only.

2.03.105 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

2.03.106 **CLUSTER SUBDIVISION** shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.



2.03.107 **CODE** shall mean the Municipal Code of the City of Wahoo.

2.03.108 **COFFEE HOUSE** shall mean an informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

2.03.109 **COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and premade bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating.

2.03.110 **COMMISSION** shall mean the Wahoo Planning Commission.

2.03.111 **COMMON OPEN SPACE** shall mean that undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the benefit of the owners of the individual building sites of said development.

2.03.112 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

2.03.113 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

2.03.114 **COMPATIBLE USES** shall mean a land use that is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

2.03.115 **COMPREHENSIVE DEVELOPMENT PLAN, or COMPREHENSIVE PLAN**, shall mean the Comprehensive Plan of Wahoo, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Nebr. Rev. Stat. § 19-903 (R.R.S. 1997).

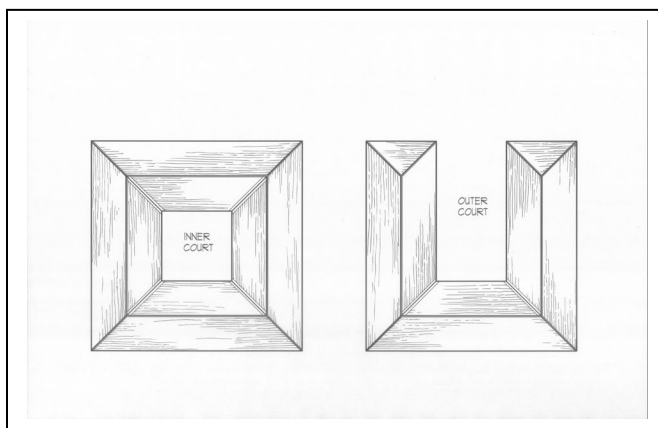
2.03.116 **CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

- 2.03.117 **CONDITIONAL USE PERMIT** shall mean a permit issued by the City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.
- 2.03.118 **CONDOMINIUM** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1996).
- 2.03.119 **CONFINED LIVESTOCK FEEDING** shall mean the process and area used for confinement of livestock for feeding purposes including the definitions of “Confinement” and “Feedlot, Commercial”.
- 2.03.120 **CONFINEMENT** shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides,, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather. Also see “Feedlot, Commercial”.
- 2.03.121 **CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.
- 2.03.122 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility.
- 2.03.123 **CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.
- 2.03.124 **CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.
- 2.03.125 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
- 2.03.126 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. Also see “Self-service Station”.
- 2.03.127 **CONTIGUOUS** shall mean the same as "Abut".
- 2.03.128 **COPY CENTER** shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.

2.03.129 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two or more sides by such buildings.

2.03.130 **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

2.03.131 **COURT, OUTER** shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

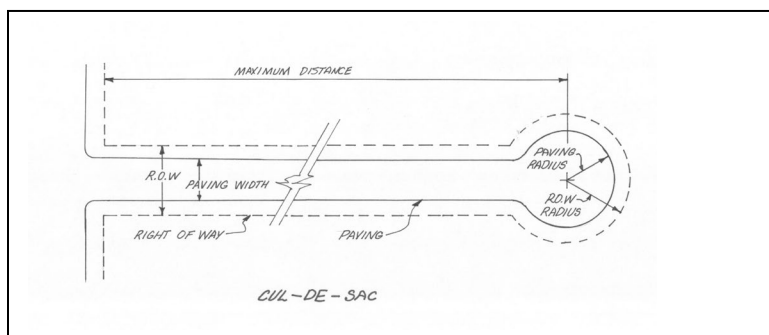


2.03.132 **CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

2.03.133 **CURVE LOT** see "Lot, Curve".

2.03.134 **DENSITY** shall mean the number of dwelling units per gross acre of land.

2.03.135 **DEPARTMENT STORE** shall mean a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and exhibited and sold directly to the customer for whom the goods and services are furnished.



2.03.136 **DESIGN STANDARDS** shall mean the document adopted for evaluation of all projects proposed within the Transportation Corridor overlay district. Design Standards shall be applicable to all sites located within the Transportation Corridor district, with the exception of one unit dwellings or two unit dwellings.

2.03.137 **DETENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.

2.03.138 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

2.03.139 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

2.03.140 **DEVELOPMENT CONCEPT PLAN** see "Site Plan".

2.03.141 **DEVELOPMENT REVIEW** shall mean the review, by the county of subdivision plats, site plans, rezoning requests, or permit review.

2.03.142 **DISCOUNT CENTER** shall mean a single or group of stores, offering merchandise for sale at less than usual retail prices. Merchandise may be discounted due to either quantity price breaks or merchandise has been discontinued and discounted to another retailer.

2.03.143 **DISSOLVE**: A mode of message transition on an Electronic Message Display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

- 2.03.144 **DOG KENNEL** see Kennel, Commercial”.
- 2.03.145 **DOMESTIC ANIMALS** see “Household Pet”.
- 2.03.146 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.
- 2.03.147 **DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided that in the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.
- 2.03.148 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.
- 2.03.149 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.03.150 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
- 2.03.151 **DUPLEX** shall mean the same as "Dwelling, Two Family".
- 2.03.152 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
- 2.03.153 **DWELLING FOR THE ELDERLY AND/OR HANDICAPPED** shall mean a two-family or multiple-family residential building having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those who at least 62-years of age. Handicapped persons are those people having an impairment which is expected to be of long, continuous and indefinite duration, is a substantial limitation to their ability to live independently, and is of a nature that such ability could be improved by more suitable housing.
- 2.03.154 **DWELLING, FARM** shall mean a dwelling located on a farm or ranch and occupied by the owner, tenant or employee of the farm or ranch.
- 2.03.155 **DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
- 2.03.156 **DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
1. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
  2. Permanent Foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.



- 2.03.157 **DWELLING, MODULAR** shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (R.S.Supp.,2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be a conventional type single-family dwelling, and those that do not meet the above criteria shall be considered a mobile home.
- 2.03.158 **DWELLING, MULTIPLE** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.159 **DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.
- 2.03.160 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:
1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
  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 a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock. Said roof may be finished in metal provided it is non-reflective and meets standards established for residential or commercial use;
  6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
  7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
  8. Permanent foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.
- 2.03.161 **DWELLING, TOWNHOUSE** shall mean a one-family dwelling in a row of at least two such units and not more than 12 units in which each unit has its own front and rear access to the outside, no unit is located over another unit. Said dwelling units are separated by a common wall (wall shall meet all applicable fire and building codes and shall not have any penetrations from one unit to another) through the center of the structure that also sits along the property line separating ownership of the structure. Each unit is located on a separate parcel of land within the development site.
- 2.03.162 **DWELLING, TWO FAMILY** shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.163 **DWELLING UNIT** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.03.164 **EARTH-SHELTERED RESIDENCE** shall a residence designed as a complete structure below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located, and which was not intended to serve as a substructure or foundation for a building.
- 2.03.165 **EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

- 2.03.166 **EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.
- 2.03.167 **ELEEMOSYNARY INSTITUTION** shall mean any building or group of buildings devoted to and supported by charity.
- 2.03.168 **EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.
- 2.03.169 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.
- 2.03.170 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.03.171 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.03.172 **EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.
- 2.03.173 **EXTERIOR BUILDING COMPONENT** shall mean an essential and visible part of the exterior of a building.
- 2.03.174 **EXTERNAL DESIGN FEATURE** shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.
- 2.03.175 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.
- 2.03.176 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.
- 2.03.177 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
- 2.03.178 **FADE**: A mode of message transition on an Electronic Message Display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
- 2.03.179 **FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.
- 2.03.180 **FAMILY CHILD CARE HOME I** shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Family Child Care Home I shall meet requirement of the State of Nebraska.

- 2.03.181 **FAMILY CHILD CARE HOME II** shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.182 **FARM** an area containing at least 20 acres or more and produces \$1,000.00 or more per year in agricultural products and which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.03.183 **FEEDLOT, COMMERCIAL** shall mean a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure.
- 2.03.184 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary.
- 2.03.185 **FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of fence, 50 percent or more of the surface area in open spaces which affords direct views through the fence.
- 2.03.186 **FENCE, SOLID** shall mean any fence which does not qualify as an open fence.
- 2.03.187 **FIREWORKS** shall mean any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, firecrackers, torpedoes, sky rockets, Roman candles, Daygo bombs, sparklers, or other fireworks containing any explosive or flammable compound, or any tablet or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps containing not more than 0.25 of a grain (16.20 milligrams) of explosive composition per cap.
- 2.03.188 **FIREWORKS STAND** shall mean any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.
- 2.03.189 **FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.
- 2.03.190 **FLOOD** shall mean the water of any watercourse or drainage way which is above the banks or outside the channel and banks of such watercourse or drainageway.
- 2.03.191 **FLOOD PLAIN** shall mean those lands which are subject to a one percent or greater chance of flooding in any given year as identified by FEMA.
- 2.03.192 **FLOODWAY** shall mean the channel of a watercourse or drainageway and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainageway.
- 2.03.193 **FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
- 2.03.194 **FOOD PROCESSING** shall mean a business that takes a raw material and processes it into a consumable form. This would include taking live or dead livestock and butchering it into specific cuts of meat. Food

processing may also comprise of the manufacturing of consumer ready products such as frozen goods including frozen foods such as appetizers, vegetables, and similar foods that are supplied directly to wholesalers, restaurants, and/or grocery stores.

- 2.03.195 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
- 2.03.196 **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.
- 2.03.197 **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.
- 2.03.198 **FOOD STORAGE (MEAT LOCKER)** shall mean a use that rents cold storage to individuals for the purpose storing meat and other perishable items.
- 2.03.199 **FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.
- 2.03.200 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.
- 2.03.201 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.03.202 **GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. Also see "Service Station".
- 2.03.203 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.
- 2.03.204 **GATED COMMUNITIES** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high-end houses. The type of gates can range from elaborate guard houses to simple electronic arms.
- 2.03.205 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 2.03.206 **GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.
- 2.03.207 **GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set aside for a walkway, bicycle trail, bridal path, or other similar access-way.
- 2.03.208 **GROUND COVER** shall mean plant material used in landscaping which remains less than 12 inches in height at maturity. Also see "Landscaping".
- 2.03.209 **GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
- 2.03.210 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.

- 2.03.211 **GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having:
1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
  2. A record of having such an impairment; or
  3. Being regarded as having such impairment.
- Handicap shall not include current, illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401. (R.R.S.Supp, 2000).
- 2.03.212 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.
- 2.03.213 **GUEST ROOM** shall mean a room which is designed to be occupied by one or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.
- 2.03.214 **HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.
- 2.03.215 **HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.
- 2.03.216 **HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.
- 2.03.217 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.
- 2.03.218 **HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.
- 2.03.219 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.
- 2.03.220 **HEIGHT OF BUILDING** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.
- 2.03.221 **HOME IMPROVEMENT CENTER** shall mean a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.
- 2.03.222 **HOME OCCUPATION** shall mean an "in-home" or "home based" or entrepreneurial business operating from a residential dwelling within Wahoo. Home occupations are considered accessory uses to properties in all zoning districts.

Home occupations include (but not limited to) art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber) shops, and renting of rooms for residential purposes. Any portion of a residential

property, including a home phone, computer, mailing address, etc., used in deriving income or sales, are included in this definition. Family Child Care Home I and II are exempt as Home Occupations except for any signage restrictions.

- 2.03.223 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
- 2.03.224 **HOSPITAL** shall mean an establishment providing physical health services, in-patient, out-patient, or overnight accommodations, and medical or surgical care of the sick or injured.
- 2.03.225 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.
- 2.03.226 **HOUSE TRAILER** see “Dwelling: Mobile Home”.
- 2.03.227 **HOUSEHOLD PET** shall mean an animal which is customarily kept for personal use or enjoyment within a home.
- 2.03.228 **IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roofs, sidewalks, parking lots, and driveways.
- 2.03.229 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.
- 2.03.230 **INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.03.231 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.
- 2.03.232 **INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the city, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
- 2.03.233 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.03.234 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.
- 2.03.235 **INTENT AND PURPOSE** shall mean that the Commission and Council by the adoption of this Regulation, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.
- 2.03.236 **INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED (ICF/MR)** shall mean a facility as defined in the Developmental Disabilities and Behavioral Health Facilities Section and licensed by the Nebraska Department of Health and Human Services where shelter, food and training or habilitation services, advice, counseling, diagnosis, treatment, care, nursing care, or related services are

provided for a period of more than 24 consecutive hours to four or more persons residing at the facility who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities.

- 2.03.237 **JUICE BAR** See Section 7.26, "Adult Establishment".
- 2.03.238 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
- 2.03.239 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment that were the result of dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".
- 2.03.240 **KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which more than eight household pets, at least six months of age, are boarded, bred, or trained for a fee. This is further referenced as an Animal Shelter within Section 96.04 of the Municipal Code.
- 2.03.241 **KENNEL, COMMERCIAL** shall mean an establishment where more than eight household pets at least six months of age are groomed, bred, boarded, trained, or sold as a business. This is further referenced as an Animal Shelter within Section 96.04 of the Municipal Code.
- 2.03.242 **LAGOON** shall mean a wastewater treatment facility which is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
- 2.03.243 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.03.244 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- 2.03.245 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.
- 2.03.246 **LARGE BOX RETAIL** shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include: membership wholesale clubs emphasizing in large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point of sale concepts and department stores.
- 2.03.247 **LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.03.248 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. Also see Congregate Housing.
- 2.03.249 **LIGHT CUT-OFF ANGLE** shall mean an angle from vertical, extending downward from a luminary, which defines the maximum range of incident illumination outward at the ground plane.
- 2.03.250 **LIMITS OF GRADING** shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

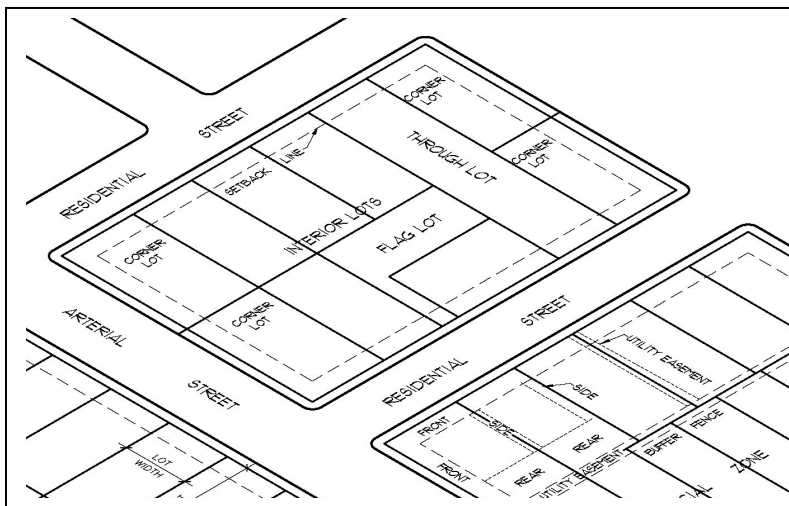
2.03.251 **LOADING SPACE** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

2.03.252 **LOT** shall mean a parcel or tract of land which is or may be occupied by a permitted use, together with yards, and other required open spaces, that have frontage upon a street, and is part of a recorded subdivision plat or has been recorded prior to the adoption of the regulations, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one public street or right-of-way, two thoroughfare easements, or one private road.

2.03.253 **LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.

2.03.254 **LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

2.03.255 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.



2.03.256 **LOT, CURVE** shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.

2.03.257 **LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines. Corner lots shall provide at least one dimension equal to the required lot depth prescribed in the affected zoning district.

2.03.258 **LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

2.03.259 **LOT, FLAG** shall mean lots, being those lots landlocked from public right-of-way, except for a narrow tract of land of less width than required under assigned zoning.

2.03.260 **LOT, FRONTAGE** shall mean the side of a lot abutting on a street or an improved county road. For purposes of determining yard requirements of corner lots and through lots, all sides of a lot abutting a street or road shall be considered frontage.

2.03.261 **LOT, INTERIOR** shall mean a lot other than a corner lot which has frontage on one street only.

2.03.262 **LOT LINE** shall mean the property line bounding a lot.

2.03.263 **LOT LINE, FRONT** shall mean the property line abutting a street.

2.03.264 **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.



- 2.03.265 **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.03.266 **LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of the zoning regulations.
- 2.03.267 **LOT THROUGH** shall mean a lot other than a corner lot, fronting on more than one street.
- 2.03.268 **LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Registrar of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.
- 2.03.269 **LOT WIDTH** shall mean the minimum street frontage measured along the front street property line except when a lot fronts on the inside or concave side of a horizontal curvilinear alignment of a street or on a corner lot; in which case, the minimum lot width shall be measured along the front building line of the principal use structure extended to both lot property lines.
- 2.03.270 **MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.
- 2.03.271 **MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
- 2.03.272 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.
- 2.03.273 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Wahoo City Council.
- 2.03.274 **MASSAGE ESTABLISHMENT** shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per §71-1,278 through §71-1,283, Nebr. R.R.S., 1943
- 2.03.275 **MASSAGE PARLOR** See Section 7.26, "Adult Establishment".
- 2.03.276 **MASSAGE THERAPY ESTABLISHMENT** shall mean any duly licensed place in which a massage therapist practices his or her profession of massage therapy, as defined in Neb. Rev. Stat. § 71-1,278 (R.S.Supp.,2000).
- 2.03.277 **MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of Wahoo and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

- 2.03.278 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.
- 2.03.279 **MEDICAL CLINIC** shall mean a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services to outpatients, employees or visitors. The term “medical clinic”, includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.
- 2.03.280 **MINI-STORAGE OR MINI-WAREHOUSE** see “Self-Service Storage Facility”.
- 2.03.281 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.
- 2.03.282 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.
- 2.03.283 **MOBILE HOME** see “Dwelling, Mobile Home”.
- 2.03.284 **MOBILE HOME PARK** see “Manufactured Home Park”.
- 2.03.285 **MOBILE HOME SUBDIVISION** see “Manufactured Home Subdivision”.
- 2.03.286 **MOTEL** see Hotel”.
- 2.03.287 **MOTOR FREIGHT TERMINAL** see “Truck and Freight Terminal”
- 2.03.288 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.
- 2.03.289 **NEB. REV. STAT.** shall refer to the Nebraska State Statutes.
- 2.03.290 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. Also see “Bar”.
- 2.03.291 **NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.
- 2.03.292 **NON-CONFORMING BUILDING** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.03.293 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.
- 2.03.294 **NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces \$1,000 dollars or more of farm products each year.
- 2.03.295 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
- 2.03.296 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.
- 2.03.297 **NURSERY SCHOOL** see “Preschool”.

- 2.03.298 **NURSING HOME** shall mean a long term care facility as defined and licensed by the Nebraska Department of Health and Human Services as one of the following:
- a. **Skilled Nursing Facility** means a facility where medical care, skilled nursing care, rehabilitation or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled.
  - b. **Nursing Facility** means a facility where medical care, nursing care, rehabilitation or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled.
  - c. **Intermediate Care Facility** means a facility where shelter, food and nursing care or related services are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled and do not require hospital or skilled nursing facility care.
- 2.03.299 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.
- 2.03.300 **OFFICIAL MAP** see “Map, Official Zoning District”.
- 2.03.301 **OFF-STREET PARKING AREA or VEHICULAR USE** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
- 2.03.302 **OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
- 2.03.303 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
- 2.03.304 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.
- 2.03.305 **OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".
- 2.03.306 **OUTDOOR CAFÉ** shall mean an outdoor area, adjacent to a street level eating or drinking establishment which derives sixty-five percent (65%) or more of its gross proceeds from the sale of food, located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area shall be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof. Outdoor cafés shall not be used for smoking.
- 2.03.307 **OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.03.308 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.03.309 **PAINTBALL** shall mean all guns and other devices used for the purpose of firing pellets containing a latex paint at a person or target.
- 2.03.310 **PAINTBALL COURSE, COMMERCIAL** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit by visit basis that allows individuals to participate in paintball activities.

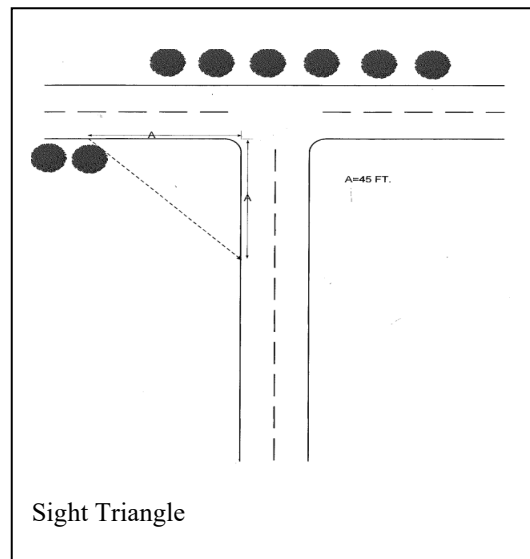
- 2.03.311 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
- 2.03.312 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.03.313 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
- 2.03.314 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.
- 2.03.315 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.
- 2.03.316 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.
- 2.03.317 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.
- 2.03.318 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry block or brick or other acceptable materials and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
- 2.03.319 **PERMANENT TREE PROTECTION DEVICES** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.
- 2.03.320 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
- 2.03.321 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.
- 2.03.322 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Wahoo, Nebraska.
- 2.03.323 **PLANNED DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.
- 2.03.324 **PLANNING COMMISSION** shall mean the Planning Commission of Wahoo, Nebraska.
- 2.03.325 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.
- 2.03.326 **PLAT** shall mean a map that delineates the subdivision of a quantity of land. A plat commonly shows the location, boundaries, legal description, streets and other features relevant to the development and improvement of the property.
- 2.03.327 **POLICY** shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
- 2.03.328 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

- 2.03.329 **PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.
- 2.03.330 **PROFESSIONAL OFFICE** shall mean a use that centers on office activities of professions such as attorneys, accountants, chiropractors, doctors, dentists, engineers, architects, planners, banks and other consulting service based businesses.
- 2.03.331 **PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.03.332 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.
- 2.03.333 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.
- 2.03.334 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
- 2.03.335 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least twenty-five individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.03.336 **PUBLIC WAY** shall mean an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other ways in which the general public or public entity have a right, or which are dedicated, whether improved or not.
- 2.03.337 **RAILROAD** shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
- 2.03.338 **RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
- 2.03.339 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
- 2.03.340 **RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

- 2.03.341 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.
- 2.03.342 **RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
- 2.03.343 **RESTAURANT, DRIVE-IN** shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.
- 2.03.344 **RESTAURANT, ENTERTAINMENT** shall mean an establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.
- 2.03.345 **RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.
- 2.03.346 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.03.347 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.
- 2.03.348 **REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
- 2.03.349 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.03.350 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.03.351 **RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use as a public way of vehicles or pedestrians or both. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features such as grade separation, landscaped areas, viaducts and bridges.
- 2.03.352 **ROAD** shall mean the same as "Street".
- 2.03.353 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. Also see "Right-of-Way" and "Street".
- 2.03.354 **ROAD, PUBLIC** shall mean all public right-of-way reserved or dedicated for street or road traffic. Also see "Right-of-Way" and "Street".
- 2.03.355 **ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.03.356 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.

- 2.03.357 **SCHOOL, DAY** shall mean a preschool or nursery school for children.
- 2.03.358 **SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
- 2.03.359 **SCREENING** shall mean a structure or planting that conceals from view from public ways the area behind such structure or planting.
- 2.03.360 **SCROLL**: A mode of message transition on an Electronic Message Display where the message appears to move vertically across the display surface.
- 2.03.361 **SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.
- 2.03.362 **SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
- 2.03.363 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage of a customer's goods and wares.
- 2.03.364 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- 2.03.365 **SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
- 2.03.366 **SETBACK LINE** shall mean a line, as shown on a recorded plat or otherwise established by the Wahoo City Council, beyond which no part of the exterior wall of a building or structure may project.
- 2.03.367 **SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.
- 2.03.368 **SETBACK LINE, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.
- 2.03.369 **SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.
- 2.03.370 **SHOPPING CENTER, COMMERCIAL STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one city block or more. Includes individual buildings on their own lots, with or without on-site parking and small linear shopping centers with shallow on-site parking in front of the stores.
- 2.03.371 **SHRUB** shall mean a multi-stemmed woody plant other than a tree.

- 2.03.372 **SIDEWALK** or **WALKWAY** shall mean that portion of a dedicated right-of-way or easement improved and intended for pedestrian use only.
- 2.03.373 **SIDEWALK CAFE** shall mean an outdoor area adjacent to a street level eating or drinking establishment which derives sixty-five percent (65%) or more of its gross proceeds from the sale of food, located upon a portion of the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area shall be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof. A sidewalk café occupying any portion of the public space abutting the record owner's property must obtain and meet conditions of a Sidewalk Café Permit as outlined in Municipal Code. Sidewalk cafés shall not be used for smoking.
- 2.03.374 **SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of nearest intersecting curbs or curb lines, 45 feet in each direction along the curb line of the streets. At the intersection of major or arterial streets, the distance of 45 feet shall be increased to 75 feet for each arterial leg of the intersection.
- 2.03.375 **SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest.
- 2.03.376 **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.
- 2.03.377 **SIGN, ANIMATED** shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene, appearance or optical illusion of movement, or appears to flash, undulate, pulse, blink, move closer or further from the viewer, expand or contract, bounce, rotate, twist or otherwise portray movement.
- 2.03.378 **SIGN, ANNOUNCEMENT** shall mean a small announcement or professional signs, not over six square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
- 2.03.379 **SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.





2.03.380 **SIGN AREA** of a sign on which copy can be placed but not including the minimal supporting framework or bracing. the area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.



**Sign, Banner**

2.03.381 **SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and / or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds to attract attention.

2.03.382 **SIGN, AWNING OR CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

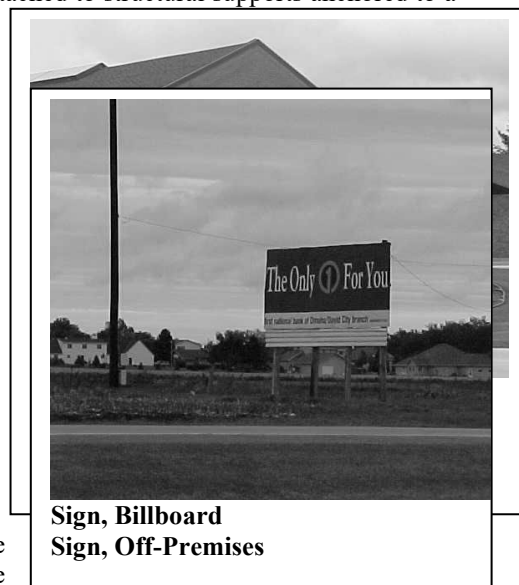
2.03.383 **SIGN, BANNER** shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.

2.03.384 **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located. A billboard will be permanently attached to structural supports anchored to a permanent foundation or on the façade of a structure.

2.03.385 **SIGN, BREAKAWAY GROUND MONUMENT** shall mean a sign mounted directly in the ground with supports which meet MUTCD criteria for breakaway supports, a maximum height not to exceed six feet.

2.03.386 **SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.

2.03.387 **SIGN, BUILDING MARKER** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.



**Sign, Billboard  
Sign, Off-Premises**

2.03.388 **SIGN, CHANGEABLE COPY** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy sign for purposes of this ordinance.

2.03.389 **SIGN, CLOSED** shall mean a sign in which more than 50 percent of the entire area is solid or tightly closed or covered.

- 2.03.390 **SIGN, COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- 2.03.391 **SIGN, COMMUNITY OR CIVIC** shall mean a sign containing business logos and/or logos of civic organizations. The sign is intended to provide space for several businesses and/or organizations on one sign, and all advertising is similar in size. The primary intent of the community or civic sign is for informational purposes and to communicate information to the motoring public as to businesses and organizations that are active in the community. Community or civic signs are owned and operated by the local chamber of commerce or other civic organization or non-profit entity.
- 2.03.392 **SIGN, CONSTRUCTION** shall mean a temporary sign identifying an architect, engineer, contractor, subcontractor, and / or material supplier who participates in construction on the property on which the sign is located.
- 2.03.393 **SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.
- 2.03.394 **SIGN, DIRECTIONAL** shall mean any sign which serves primarily to designate the location or direction of any area or place. This definition shall also include any sign approved by the Utilities Department in connection with major street construction projects or any sign considered by the Nebraska Department of Roads as a directional sign. A business name and/or logo is acceptable on a directional sign.
- 2.03.395 **SIGN, ELECTRONIC MESSAGE DISPLAY** shall mean a sign that uses changing lights, including digital/LED display, to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- 2.03.396 **SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.
- 2.03.397 **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
- 2.03.398 **SIGN, GROUND (LOW PROFILE)** shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.
- 2.03.399 **SIGN, HIGHWAY** shall mean any roadway designated by the Nebraska Department of Roads as a federal and/or state highway and shall include the traveled portions thereof and those portions between the traveled portions and the property lines adjacent thereto.
- 2.03.400 **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.
- 2.03.401 **SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
- 2.03.402 **SIGN, INFORMATIONAL** shall mean a sign that provides direction, either on public right-of-way or private property, to businesses or services located within a community. These signs may include community or civic signs, logo signs, tourist oriented directional signs or directional signs.



**Sign, Ground (Low Profile)**

2.03.403 **SIGN, LOGO** shall mean signs owned and operated by an agent for the Nebraska Department of Roads. The signs are located in the right-of-way on interstate or primary highways. The signs are designed to accommodate businesses that furnish gas, food, lodging, or camping and meet any criteria established by the Nebraska Department of Roads.

2.03.404 **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

2.03.405 **SIGN, MOBILE or SIGN, PORTABLE** shall mean a sign, not securely anchored to the ground or to a building or structure and capable of being moved from place to place.

2.03.406 **SIGN, NAMEPLATE** shall mean a sign not exceeding two square feet for each dwelling.

2.03.407 **SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance.

2.03.408 **SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six months after the termination of the existence of such business or the termination of sale of the product advertised.

2.03.409 **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

2.03.410 **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

2.03.411 **SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

2.03.412 **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

2.03.413 **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

2.03.414 **SIGN, POLITICAL CAMPAIGN** shall mean those signs promoting or expressing an opinion regarding a candidate for public office or an issue to be decided by a public election.

2.03.415 **SIGN, PORTABLE, or SIGN, MOBILE** shall mean a sign, not securely anchored to the ground or to a building or structure and capable of being moved from place to place.

2.03.416 **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

2.03.417 **SIGN, PUBLIC RIGHT-OF-WAY** shall mean that portion of the right-of-way dedicated to the public for public use located between adjacent property lines and including the traveled portion thereof and that portion between the curb lines of the traveled portion thereof and the adjacent property lines.

2.03.418 **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.



**Sign, Projecting**

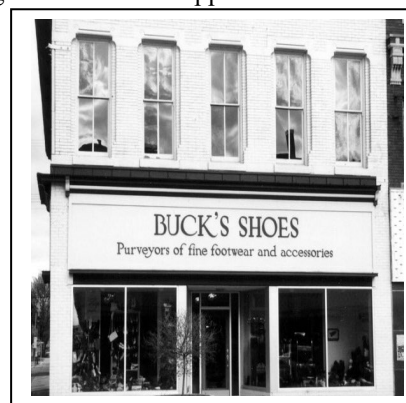


**Sign, Subdivision**

- 2.03.419 **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.
- 2.03.420 **SIGN, ROOF (INTEGRAL)** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.
- 2.03.421 **SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.
- 2.03.422 **SIGN, SUBDIVISION** shall mean a sign erected on a subdivision that identifies the platted subdivision where the sign is located.
- 2.03.423 **SIGN, SUBDIVISION ENTRANCE** shall mean a sign that is permanently constructed at the entrance(s) of the subdivision and includes the name of the subdivision in the form of attached letters or sign. The subdivision entrance sign may include specific types of landscaping such as water, stone, brick, etc.
- 2.03.424 **SIGN, SURFACE** shall mean the entire area of a sign.
- 2.03.425 **SIGN, SUSPENDED** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- 2.03.426 **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including but not limited to, displays for holidays or public demonstrations, special events, community festivals, parades, farmer's markets, charity benefits, garage sales and election-oriented political signs. Temporary signs shall include sandwich board signs, banners constructed of light-weight materials not permanently attached to building or land, and portable signs as defined in this section.
- 2.03.427 **SIGN, TOURIST ORIENTED DIRECTIONAL** shall mean a sign owned and operated by a contracted agent of the Nebraska Department of Roads and located in the right-of-way on rural highways and cannot be erected on the interstate or interchanges on expressways. These signs shall meet all applicable criteria established by the Nebraska Department of Roads.
- 2.03.428 **SIGN, VIDEO** shall mean any on-premises or off-premises sign that convey either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.
- 2.03.429 **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- 2.03.430 **SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
- 2.03.431 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

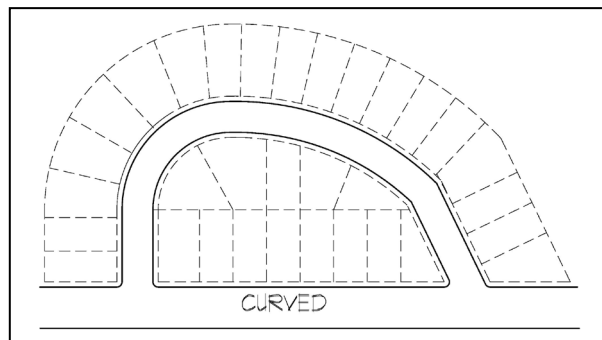


Sign, Subdivision Entrance



- 2.03.432 **SITE BREAK** shall mean a structural or landscape device to interrupt long vistas and create visual interest in a site development.
- 2.03.433 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.
- 2.03.434 **SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.03.435 **SKATE, IN-LINE** shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.
- 2.03.436 **SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for use with skateboards and in-line skates.
- 2.03.437 **SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.
- 2.03.438 **SKATEBOARD PIPE** shall mean an outdoor structure which is shaped into a half circle or oval, which are designed and principally intended to permit persons on skateboards to move continuously from one side to the other.
- 2.03.439 **SKATEBOARD RAMP** shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.
- 2.03.440 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.03.441 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.03.442 **SPECIFIED ANATOMICAL AREAS** See Section 7.26
- 2.03.443 **SPECIFIED SEXUAL ACTIVITIES** See Section 7.26
- 2.03.444 **SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
- 2.03.445 **STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
- 2.03.446 **STATE** shall mean the State of Nebraska.
- 2.03.447 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.
- 2.03.448 **STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.
- 2.03.449 **STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

- 2.03.450 **STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.
- 2.03.451 **STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.
- 2.03.452 **STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.
- 2.03.453 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.03.454 **STORY, ONE-HALF** shall mean the same as "Half-Story".
- 2.03.455 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including public streets, highways, avenues, boulevards, parkways, roads, place, way, drive, lanes, viaducts, subways, tunnels, and bridges. Where explicitly authorized by the City Council, private streets may be authorized as part of planned developments.
- 2.03.456 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a City with controlled access to abutting property, including necessary control of entrances, exits, and curb use. See also Street, Major.
- 2.03.457 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.03.458 **STREET, COLLECTOR** shall mean a street or highway, that is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development in the Comprehensive Plan.
- 2.03.459 **STREET, CURVILINEAR (CURVED)** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.03.460 **STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.
- 2.03.461 **STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.
- 2.03.462 **STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.
- 2.03.463 **STREET, LOCAL** shall mean a street designed for local pedestrian and vehicular traffic that provides direct access to abutting residential, commercial, or industrial properties.

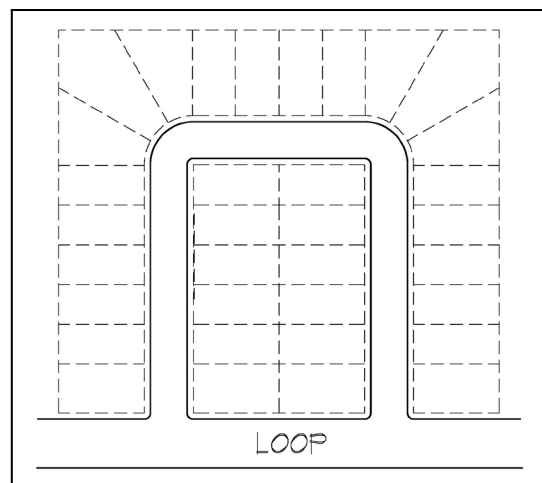


2.03.464 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.

2.03.465 **STREET, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets as designated in the Comprehensive Plan. (Also known as Arterial Streets).

2.03.466 **STREET, MINOR** see Street, Local.

2.03.467 **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."



2.03.468 **STREET, SIDE** shall mean that street bounding a corner lot and which extends in the same general direction as the line determining the depth of the lot.

2.03.469 **STREETS LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

2.03.470 **STREETScape** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.

2.03.471 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

2.03.472 **STRUCTURE, ADVERTISING** shall mean the same as "Advertising Structure".

2.03.473 **STRUCTURE, TEMPORARY** shall mean a structure without a permanent foundation or footing and which will be removed when the designated time period, activity, or use has ceased.

2.03.474 **STRUCTURAL, ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

2.03.475 **SUBDIVIDER** shall mean any person, group, corporation, partnership, or other entity, or any agency thereof, dividing or proposing to divide land so as to constitute a subdivision.

2.03.476 **SUBDIVISION** shall mean the division of a land, lot, tract, or parcel into two or more lots, parcels, plats, sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future, provided that the smallest lot created by the division is less than 10 acres in size. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

2.03.477 **SUPERMARKET** see "Food Sales"

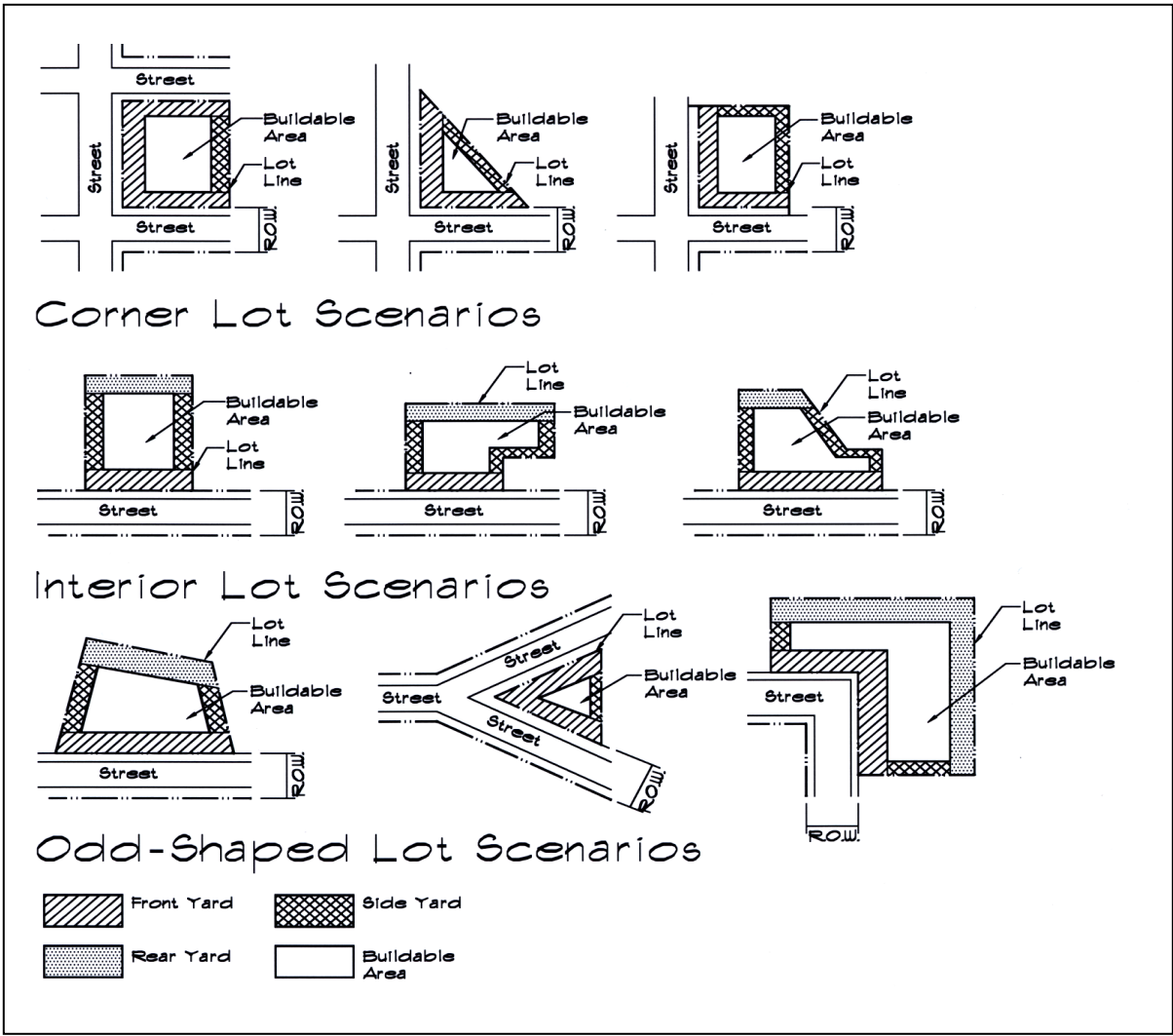
2.03.478 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

- 2.03.479 **TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.
- 2.03.480 **TATOO PARLOR / BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.
- 2.03.481 **TAVERN** see "Bar".
- 2.03.482 **TEMPORARY USE** shall mean a use intended for a limited time period and said use may contain a structure(s) that is not permanently attached.
- 2.03.483 **THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.
- 2.03.484 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. Also see "Antenna".
- 2.03.485 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.03.486 **TRANSITION:** A visual effect used on an Electronic Message Display to change from one message to another.
- 2.03.487 **TRAVEL:** A mode of message transition on an Electronic Message Display where the message appears to move horizontally across the display surface.
- 2.03.488 **TRUCK AND FREIGHT TERMINAL** shall mean a facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities operated by a courier such as the U.S. Postal Service or UPS.
- 2.03.489 **TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.
- 2.03.490 **TRUCK STOP** shall mean a facility intended to provide services to the trucking industry, including but not limited to the following activities: dispensing of fuel, repair shops, automated washes, restaurants, and motels; all as a part of one facility.
- 2.03.491 **UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.
- 2.03.492 **USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.
- 2.03.493 **USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
- 2.03.494 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. Also see "Building, Principal".



- 2.03.495 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".
- 2.03.496 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.
- 2.03.497 **UTILITY EASEMENT** shall mean the same as "Easement".
- 2.03.498 **UTILITY HARDWARE** shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.
- 2.03.499 **UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION" SYSTEM OF** shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.
- 2.03.500 **UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.
- 2.03.501 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.
- 2.03.502 **VARIANCE** shall mean a 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.
- 2.03.503 **VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.
- 2.03.504 **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.
- 2.03.505 **VEHICLE, MOTOR** see "Motor Vehicle".
- 2.03.506 **VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.
- 2.03.507 **WALKWAY**, see **SIDEWALK**.
- 2.03.508 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.03.509 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.03.510 **WASTEWATER LAGOON** see "Lagoon".

- 2.03.511 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.
- 2.03.512 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.03.513 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.
- 2.03.514 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.
- 2.03.515 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.
- 2.03.516 **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.
- 2.03.517 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- 2.03.518 **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.
- 2.03.519 **ZONE LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.
- 2.03.520 **ZONING ADMINISTRATIVE OFFICER** shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of these regulations.
- 2.03.521 **ZONING DISTRICT** shall mean an area delineated on a zoning map for which uniform use regulations are specified.
- 2.03.522 **ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.



**ARTICLE 3: DISTRICTS AND OFFICIAL MAP**

**Section 3.01 Districts.** In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within one mile of the corporate boundaries, the City is hereby divided into districts.

**Section 3.02 Provision for Official Zoning Map.**

3.02.01 The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. 1886 of the City of Wahoo, Nebraska", together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance, 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 City Council.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new 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 thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map, adopted by Ordinance No. 2357 on October 22, 2020, supersedes and replaces the Official Zoning Map adopted November 26, 2019 by Ordinance No 2335, of the City of Wahoo Nebraska."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**ARTICLE 4: GENERAL PROVISIONS**

**Section 4.01 Planning Commission Recommendations.** Pursuant to Neb. Rev. Stat. § 19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the city.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

**Section 4.02 District Regulations, Restrictions, Boundary Creation.** No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing.

**Section 4.03 Jurisdiction.** The provisions of this Ordinance shall apply within the corporate limits of the City of Wahoo, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile, as established on the map entitled "The Official Zoning Map of the City of Wahoo, Nebraska", and as may be amended by subsequent annexation.

**Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements.** In their interpretation and application, the provisions of this Ordinance 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 Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser 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 Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser 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 Ordinance, the provisions of such ordinance shall govern.

**Section 4.05 Zoning Affects Every Building and Use.** No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

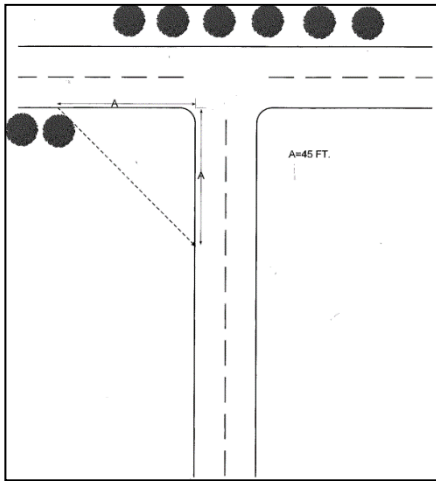
**Section 4.06 Lot.**

4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.

4.06.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council.

- 2.03.522.1 Institutional buildings
- 2.03.522.2 Public or semi-public buildings
- 2.03.522.3 Multiple-family dwellings
- 2.03.522.4 Commercial or industrial buildings
- 2.03.522.5 Home for the aged
- 2.03.522.6 Agricultural buildings

**Section 4.07 Reductions in Lot Area Prohibited.** No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.



**Section 4.08 Obstructions to Vision at Street Intersections Prohibited.** On a corner lot, there shall be no obstruction to vision between a height of two and one-half feet and a height of ten feet above the grades of the bottom of the curb of the intersecting streets within the area measured from the point of nearest intersecting curbs or curb lines a distance of 45 feet along the curb line of the streets. At the intersection of major or arterial streets, the distance of 45 feet shall be increased to 75 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

**Section 4.09 Yard Requirements.**

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The City Council may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that
- 1.) More than 30 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and
  - 2.) A minority of such structures have observed or conformed to an average setback line.
- 4.09.04 The City Council may permit a variation in front yard setbacks for new additions attached to existing non-conforming structures to match the setback of said existing structure, if variation does not cause safety issues or affect existing utility conditions.
- 4.09.05 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.09.06 Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District which is adjacent to any residential use or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening; except in the Downtown Commercial District. Included in the increased yard, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

**Section 4.10 Drainage.** No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

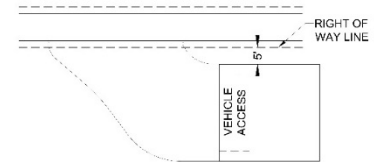
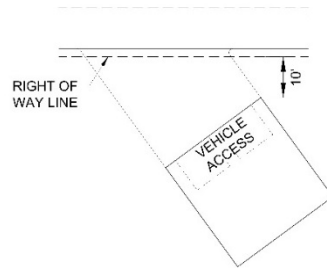
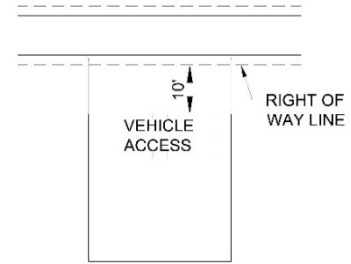
**Section 4.11 Permitted Obstructions in Required Yards.** The following shall not be considered to be obstructions when located in the required yards:

- 4.11.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting 24 inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than 18 inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.11.02 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted. Porches projecting five feet or less into the yard are permitted.
- 4.11.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.

- 4.11.04 *Double Frontage Lots*: The required front yard shall be provided on each street.
- 4.11.05 *Building Groupings*: For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

#### **Section 4.12 Accessory Building and Uses.**

- 4.12.01 No accessory building shall be constructed upon a lot prior to beginning construction of the principal building. In no event shall an Accessory Building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.12.02 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure or as designated in each individual zoning district.
- 4.12.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.12.04 Detached garages shall not be located less than 10 feet from the Rear Lot Line when the garage is entered from an alley and vehicular entrance door is oriented toward the alley. Setback may be reduced to 5 feet if the vehicular entrance door is perpendicular to the alley and the garage is entered parallel to the alley.
- 4.12.05 All detached accessory buildings or structures are to be 6 ft away from the primary structure. If the accessory structure is closer than the 6 ft, it must meet the required setbacks of the primary structure. If said accessory structure is a fire hazard, it must be 10 ft away from the primary structure.
- 4.12.06 Accessory buildings that are 576 square feet or less in total area may use a concrete "monolithic floor slab" in accordance with local building codes.
- 4.12.07 Accessory uses, structures on a three-acre lot, located in the LLR Large Lot Residential District shall have a combined maximum square footage of 2,400 square feet, but shall not exceed the footprint of the primary structure. Lots of more than the minimum three acres may be allowed accessory building space exceeding the 2,400 square foot maximum, equal to one percent of additional lot size (434 additional square feet per full acre) but in no case shall the combined total of accessory structures exceed the footprint of the primary structure. Where additional lot size is used to calculate accessory building size above the maximum, no subdivision or splitting of the lot area used for calculation shall be permitted. Accessory buildings in LLR District may be of pole type construction.
- 4.12.08 Carports provided they are attached to a permanent foundation.
- 4.12.09 Detached garages and outbuildings in Residential Districts (R-1, R-2, R-3 and NRC) for storage uses and other structures customary and appurtenant to the permitted uses shall be constructed of materials customarily used in residential construction, as provided herein:
1. Shall be constructed of materials that are in good repair,
  2. The sidewalls of said building shall not exceed 10 feet in height,
  3. Garages shall have an overhang of at least six inches,
  4. Garages shall have a maximum width of 36 feet,
  5. Garages shall be framed, constructed and finished in materials customary to and consistent in appearance with residential construction.
  6. Post-framed buildings for accessory use must have a minimum of forty-two inch footing depth for the poles.
  7. Non-glass exterior materials shall be nonreflective.
- 4.12.10 Regulation of accessory uses shall be as follows:
1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
  2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.



3. Storage of an unlicensed boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard.
- 4.12.11 Except on sites where the principal use is a one unit or two unit dwelling, accessory structures located on sites within the Transportation Overlay District will adhere to the Design Standards.

**Section 4.13 Through Lots.**

4.13.01 Through Lots shall follow the following criteria:

1. Where a Through Lot abuts an arterial or major arterial, as indicated in the Comprehensive Development Plan and access is made from the other frontage street and access along said classification is restricted, the Rear Yard setback for fences and screening devices shall be zero feet. The Rear Yard setback for accessory buildings shall follow the prescribed setback within the zoning district.
2. Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of 4.13.01 (1), while the other two frontages shall be treated as a Corner Lot with a Front Yard setback and a Street Side Yard setback.
3. Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:
  - a. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot.

Where principal structures face different directions along both frontages, the Rear Yard setback for fences and screening shall be the same as any prescribed Rear Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot. All accessory buildings in this condition, shall comply with the minimum Rear Yard setbacks rather than the reduced setback allowed for accessory buildings.

**Section 4.14 Permitted Modifications of Height Regulations.**

4.14.01 The height limitations of this Ordinance shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio/Television Towers less than 125 feet in height
Conveyors	Cooling Towers
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	Air-Pollution Prevention Devices
Silos	

Provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district, and structure does not encroach on airport hazard areas for the Wahoo Municipal Airport as depicted in the Nebraska Department of Aeronautics (NDA) zoning map for Wahoo Municipal Airport.

- 4.14.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

**Section 4.15 Occupancy of Basements and Cellars.** No basement or cellar shall be occupied for residential purposes until the remainder of the building has been completed.

**Section 4.16 Non-Conforming, General Intent.** It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.



**Section 4.17 Nonconforming Lots of Record.** In any district, notwithstanding limitations imposed by other provisions of this ordinance, a building or structure and customary accessory buildings may be erected on any single lot of record as of the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applied in the district. However, the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Said lot of record must 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 have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or a previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the board of adjustment.

**Section 4.18 Nonconforming Structures.**

- 4.18.01 *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 4.18.02 *Enlargement, Repair, Alterations:* Any such structure described in Section 4.18.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.
- 4.18.03 *Damage or Destruction:* In the event that any structure described in Section 4.18.01 is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.18.01, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 4.18.04 *Moving:* No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 4.19 Nonconforming Uses.**

- 4.19.01 *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
  2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
  3. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 4.19.02 *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

**Section 4.20 Repairs and Maintenance.**

- 4.20.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 4.20.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 4.21 Uses under Special Permit not Nonconforming Uses.** Any use for which a special permit is issued as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

**Section 4.22 Rear Yard Setbacks.** In any Residential District, the Rear Yard Setback shall be the lesser of the minimum amount noted or 20% of the total lot depth.

**Section 4.23 Fees.** All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be adopted by the City Council by separate Resolution.

**ARTICLE 5: ZONING DISTRICTS**

5.01	Districts; Uses	
5.02	Districts; Boundaries	
5.03	District Boundaries; Interpretation	
5.04	Districts; Classification of Districts upon Annexation and Conformance with Land Use Plan	
5.05	District (TA);	Transitional Agricultural
5.06	District (LLR);	Large Lot Residential
5.07	District (R-1);	Residential District
5.08	District (R-2);	Residential District
5.09	District (R-3);	Residential District
5.10	District (RM);	Mobile Home Residential District
5.11	District (NRC);	Neighborhood Residential Commercial District
5.12	District (C-1);	Downtown Commercial District
5.13	District (C-2);	Highway Commercial District
5.14	District (C-3);	General Commercial District
5.15	District (I-1);	Light Industrial District
5.16	District (I-2);	Heavy Industrial District
5.17	District (FF/FW);	Flood Plain (overlay)
5.18	District (RMD);	Residential/Mixed Use Development District
5.19	District (LWC);	Lake Wanahoo Conservation District
5.20	District (HO);	Historic Preservation Overlay District
5.21	District (TC);	Transportation Corridor Overlay District
5.22	District (RAO)	Residential Acreage Overlay District
5.23	(intentionally left blank)	
5.24	District (AHO)	Airport Hazard Overlay District
5.25	District (FRD)	Floodwater Retarding Dam Breach Overlay District

**Section 5.01 Districts; Use.** For the purpose of this Chapter, the Municipality is hereby divided into 18 districts, designated as follows:

(TA)	Agricultural
(LLR)	Large Lot Residential
(R-1)	Residential District
(R-2)	Residential District
(R-3)	Residential District
(R-M)	Residential – Mobile Home District
(NRC)	Neighborhood Residential Commercial District
(C-1)	Downtown Commercial District
(C-2)	Highway Commercial District
(C-3)	General Commercial District
(I-1)	Light Industrial District
(I-2)	Heavy Industrial District
(FF/FW)	Flood Plain (overlay)
(RMD)	Residential/Mixed Use District
(LWC)	Lake Wanahoo Conservation District
(HO)	Historic Overlay District
(TC)	Transportation Corridor Overlay District
(RAO)	Residential Acreage Overlay District
(AHO)	Airport Hazard Overlay District
(FRD)	Floodwater Retarding Dam Breach Overlay District

**Section 5.02 Districts; Boundaries.** The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Wahoo, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map. (Ref. §19-904 RS Neb.)

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**Section 5.03 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:

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 5.03.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01 – 5.03.05 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.07 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 subsections 5.03.01 – 5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;
- 5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit 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.

**Section 5.04 Classification of Districts Upon Annexation and Conformance with the Land Use Plan.** Areas annexed into the corporate limits of Wahoo shall be zoned to conform to the Land Use Plan.

**Section 5.05 TA – Transitional Agricultural District****5.05.01 Intent:**

The Transitional Agricultural District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.05.02 Permitted Uses:** The following shall be permitted as uses by right.

1. Agricultural uses, excluding the expansion of existing or development of new intensive livestock facilities operations exceeding one animal unit per acre.
2. Farm dwellings for the owners and their families, tenants, and employees.
3. Irrigation and flood control projects.
4. Public parks, playgrounds, buildings and grounds
5. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems pursuant to Section 7.20
6. Public and private nursery, primary and secondary education structures pursuant to Section 7.19
7. Churches, places of worship and cemeteries.
8. Fish hatcheries and facilities.
9. Orchards.

**5.05.03 Conditional Uses:** A building or premises may be used for the following purposes in the Transitional Agricultural District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Airports and heliports, including crop dusting.
2. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services.
3. Family Child Care Home II
4. Bed and Breakfast establishments.
5. Telecommunication, Radio and television towers and transmitters pursuant to Section 7.11.
6. Single family structures for farm residence or adjacent farm residence for relatives of consanguinity and marriage or farm workers.
7. Commercial Cabin Camp grounds, pursuant to Section 7.25.
8. Wind generating systems pursuant to the following conditions and Section 7.16:
  - 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 bottom tip of any propeller shall be at least 10 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 miles per hour.
  - f. The safety results of an approved testing laboratory shall be submitted.
  - g. Proof that the system is covered by a homeowner's insurance policy shall be submitted.
  - h. The maximum height shall be determined by anemometer studies which find out where the proper wind strata are in specific areas.
  - i. No system shall interfere with the wind access of an existing system. Systems shall be a minimum of five rotor blade lengths apart based upon the largest rotor in the area.
9. Kennels, Boarding and Training.
10. Kennels, Commercial.
11. Public and private charitable institutions.
12. Greenhouses and nurseries.
13. Animal clinics, animal hospitals, and veterinarian services.
14. Auction/sale barns and yards.
15. Salvage and junk yards.
16. Expansion of nonconforming uses, structures or land.
17. Private and/or public golf courses and driving ranges

5.05.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses.
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
4. Temporary structure for festivals or commercial events.

5.05.05 *Permitted Accessory Uses:* The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
2. Solar panels.
3. Parking as required in Section 7.01 - 7.05
4. Landscaping and screening as required in Section 7.15
5. Fences as required in Section 7.12
6. Signs as required in Section 7.06 – 7.09
7. Home occupations in conformance with Section 7.10
8. Carports in conformance with Section 4.12
9. Decks, gazeboes, elevated patios either attached or detached.
10. Dish antennas/mini dishes in conformance with Section 7.11.
11. Family Child Care Home I

5.05.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)
Farm	20	----	50	20	50	35
Farm Dwelling	20	----	50	20	50	35
Other Residential	20	----	50	20	50	35
Other uses	1	100	50	20	50	35

**Section 5.06 LLR - LARGE LOT RESIDENTIAL DISTRICT.****5.06.01 Intent:**

This zone 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 and other developed areas within the City jurisdiction. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.06.02 Permitted Uses:** The following shall be permitted uses by right.

1. Agricultural uses, animals shall not be permitted on first three acres. On tracts larger than three acres then there is a maximum of one animal unit per acre for every acre over the three acre minimum.
2. Single-family dwelling.
3. Irrigation and flood control projects.
4. Public parks, playgrounds, buildings and grounds
5. Public uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems pursuant to Section 7.20
6. Public and private nursery, primary and secondary education structures pursuant to Section 7.19

**5.06.03 Conditional Uses:** A building of premises may be used for the following purposes in the LLR Large Lot Residential District if a conditional use permit for such has been obtained in accordance with Article 6 of these regulations.

1. Airports and heliports, including crop dusting.
2. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services.
3. Places of worship such as churches, synagogues and temples.
4. Cemeteries, crematories, mausoleums and columbaria.
5. Family Child Care Home II
6. Bed and Breakfast establishments
7. Telecommunication, Radio and television towers and transmitters pursuant to Section 7.11.
8. Camp grounds.
9. Wind generating systems pursuant to Section 7.16.
10. Kennels, Boarding and Training
11. Kennels, Commercial.
12. Public and private charitable institutions.
13. Greenhouses and Nurseries.
14. Expansion of nonconforming uses, structures or land.

**5.06.04 Temporary Uses:** The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

**5.06.05 Permitted Accessory Uses:**

1. Accessory uses and structures normally appurtenant to the permitted uses and structures in accordance with Section 4.12
2. Dish antennas/mini dishes pursuant to Section 7.11.
3. Solar panels.
4. Parking as required in Section 7.01 - 7.05
5. Landscaping and screening as required in Section 7.15
6. Fences as required in Section 7.12
7. Signs as required in Section 7.06 – 7.09
8. Home occupations in conformance with Section 7.10
9. Decks, gazeboes, elevated patios either attached or detached.
10. Carports in conformance with Section 4.12
11. Family Child Care Home I

12. Livestock provided there is a maximum of one Animal Unit per acre for every acre over the three acre minimum.

5.06.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Residential Uses	3	220	50	15	50 <sup>4</sup>	35	35%
Other Uses	3	220	50	15	50 <sup>4</sup>	35	40%
Accessory Uses	-	-	75	5	5 <sup>1</sup>	* <sup>3</sup>	* <sup>2</sup>

<sup>1</sup> See Section 4.12.04

<sup>2</sup> See Section 4.12.07

<sup>3</sup> Maximum height of Accessory buildings shall not exceed the height of the Primary structure.

<sup>4</sup> See Section 4.22



**Section 5.07 R-1 - RESIDENTIAL DISTRICT.****5.07.02 Intent:**

This District is intended to provide for low-density residential uses consisting of single family dwelling units and accessory structures.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.07.02 Permitted Uses:** The following shall be permitted uses by right.

1. Single-family dwelling.
2. Public and private nursery, primary and secondary education structures pursuant to Section 7.19
3. Public parks, playgrounds, buildings and grounds
4. Public uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems pursuant to Section 7.20
5. Places of worship such as churches, synagogues and temples

**5.07.03 Conditional Uses:** A building or premises may be used for the following purposes in the R-1 Residential District if a conditional use permit for such has been obtained in accordance with Article 6 of these regulations.

1. Bed and Breakfast establishments
2. Cemeteries, crematories, mausoleums and columbaria.
3. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment
4. Expansion of nonconforming uses, structures or land.

**5.07.04 Temporary Uses:** The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

**5.07.05 Permitted Accessory Uses:**

1. Accessory uses and structures normally appurtenant to the permitted uses and structures in accordance with Section 4.12
2. Dish antennas/mini dishes in conformance with Section 7.11.
3. Solar panels.
4. Parking as required in Section 7.01 - 7.05
5. Landscaping and screening as required in Section 7.15
6. Fences as required in Section 7.12
7. Signs as required in Section 7.06 – 7.09
8. Home occupations in conformance with Section 7.10
9. Decks, gazeboes, elevated patios either attached or detached.
10. Carports in conformance with Section 4.12
11. Family Child Care Home I

5.07.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Residential Uses	10,000	75	25	7	25 <sup>3</sup>	35	35%
Other Uses	15,000	75	25	10	30 <sup>3</sup>	35	40%
Accessory Uses/Structures	-	-	25	5	5 <sup>1</sup>	20 <sup>4</sup>	*2

<sup>1</sup> See Section 4.12.04

<sup>2</sup> Provide total area of accessory structure for single family does not exceed 15% of the lot size, and the total lot coverage of all buildings does not exceed 50%. Square footage of accessory structures shall not exceed the footprint of the primary structure in any case. Contiguous lots comprising such tracts, when their total is used for computation of accessory building size, shall be merged as one parcel by a filing with the Register of Deeds.

<sup>3</sup> See Section 4.22

<sup>4</sup> Maximum height for detached accessory structures shall be measured from the floor to the midpoint of a pitch roof; in no case shall the height of an accessory structure exceed the height of the primary structure.

**Section 5.08 R-2 - Residential District.****5.08.01 Intent:**

It is the intent of this District to provide low to medium density residential uses and development of residential dwellings including two-family dwellings.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.08.02 Permitted Uses:** The following shall be permitted as uses by right.

1. Single family dwellings.
2. Public and private nursery, primary and secondary education structures pursuant to Section 7.19
3. Public parks, playgrounds, buildings and grounds
4. Public uses including but not limited to fire stations, utilities and utility distribution systems pursuant to Section 7.20.
5. Places of worship such as churches, synagogues and temples
6. Two Family Dwellings with no more than two total units.
7. Townhouses with no more than two total units pursuant to Section 7.22.
8. Condominiums with no more than two total units.

**5.08.03 Conditional Uses:** A building or premises may be used for the following purpose in the R-2 Residential District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Family Child Care Home II
2. Medical clinics and Hospitals
3. Cemeteries, crematories, mausoleums and columbaria.
4. Clubs, Fraternities, Lodges, and Meeting Places of a Non-commercial Nature.
5. Bed and Breakfast establishments
6. Expansion of nonconforming uses, structures or land
7. Retirement/nursing homes, including Skilled Nursing facilities, Nursing facilities, and Intermediate Care facilities; Assisted-Living facilities; Adult Day Services; and Intermediate Care Facilities for the Mentally Retarded (ICF/MR)
8. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment

**5.08.04 Temporary Uses:** The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

**5.08.05 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures in accordance with Section 4.12
2. Dish antennas/mini dishes in conformance with Section 7.11.
3. Solar panels.
4. Parking as required in Section 7.01 - 7.05
5. Landscaping and screening as required in Section 7.15
6. Fences as required in Section 7.12
7. Signs as required in Section 7.06 – 7.09
8. Home occupations in conformance with Section 7.10
9. Decks, gazeboes, elevated patios either attached or detached.
10. Carports in conformance with Section 4.12
11. Family Child Care Home I

5.08.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Residential Uses	7,500	60	25	5	25 <sup>3</sup>	35	35%
Two Family Dwelling	3,750 per unit	35 per unit	25	5	25 <sup>3</sup>	35	35%
Townhouses and Condominiums	2,600 per unit	25 per unit	25	5 <sup>4</sup>	20 <sup>3</sup>	35	75%
Other Uses	10,000	60	25	10	30 <sup>3</sup>	35	40%
Accessory Uses	-	-	25	5	5 <sup>1</sup>	20 <sup>5</sup>	*2

<sup>1</sup> See Section 4.12.04

<sup>2</sup> Provide total area of accessory structure for single family on lots of 7,500 square feet does not exceed 864-sq. ft. and the total lot coverage of all buildings does not exceed 50%; accessory structures on tracts with square footage greater than 7,500 square feet shall not exceed the footprint of the primary structure in any case and shall not exceed 15% of lot coverage. Contiguous lots comprising such tracts, when their total is used for computation of accessory building size, shall be merged as one parcel by a filing with the Register of Deeds.

<sup>3</sup> See Section 4.22.

<sup>4</sup> The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot or property line; except for Condominiums.

<sup>5</sup> Maximum height for detached accessory structures shall be measured from the floor to the midpoint of a pitch roof; in no case shall the height of an accessory structure exceed the height of the primary structure.

**Section 5.09 R-3 - Residential District.****5.09.01 Intent:**

It is the intent of this District to provide for medium density residential uses and development of residential dwellings.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.09.02 Permitted Uses:** The following shall be permitted as uses by right.

1. Single family dwellings
2. Two family dwellings
3. Townhouses pursuant to Section 7.22
4. Condominiums
5. Multi-family dwellings
6. Public and private nursery, primary and secondary education structures pursuant to Section 7.19.
7. Public parks, playgrounds, buildings and grounds
8. Public uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems pursuant to Section 7.20
9. Places of worship such as churches, synagogues and temples

**5.09.03 Conditional Uses:** A building or premise may be used for the following purposes in the R-3 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Family Child Care Home II
2. Medical clinics and Hospitals
3. Cemeteries, crematories, mausoleums and columbaria
4. Bed and Breakfast establishments
5. Clubs, fraternities, lodges, and meeting places of a non-commercial nature
6. Retirement and/or nursing home, including Skilled Nursing facilities, Nursing facilities, and Intermediate Care facilities; Assisted-Living facilities; Adult Day Services; and Intermediate Care Facilities for the Mentally Retarded (ICF/MR)
7. Funeral homes and mortuaries
8. Group Care Home, Group Home for Handicapped, Halfway House
9. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment
10. Expansion of nonconforming uses, structures or land

**5.09.04 Temporary Uses:** The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
2. Temporary structure for festivals or commercial events

**5.09.05 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures in accordance with Section 4.12
2. Dish antennas/mini dishes pursuant to Section 7.11
3. Solar panels
4. Parking as required in Section 7.01 - 7.05
5. Landscaping and screening as required in Section 7.15
6. Fences as required in Section 7.12
7. Signs as required in Section 7.06 – 7.09
8. Home occupations in conformance with Section 7.10
9. Decks, gazeboes, elevated patios either attached or detached
10. Carports in conformance with Section 4.12
11. Family Child Care Home I

5.09.06 Height and Lot Requirements:

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Dwelling	7,500	60	25	5	25 <sup>5</sup>	35	35%
Other Uses	10,000	60	25	5	25 <sup>5</sup>	40	35%
Two Family Dwelling	3,750 per unit	35 per unit	25	5	25 <sup>5</sup>	35	35%
Townhouses	3,750 per unit	25 per unit	25	5 <sup>6</sup>	25 <sup>5</sup>	35	50%
Condominiums	1,500 per unit <sup>3</sup>	25 per unit	25	5	25 <sup>5</sup>	35	50%
Multiple Family Dwelling	1,500 per unit <sup>3</sup>	60	25	5 <sup>4</sup>	25 <sup>5</sup>	40	35%
Accessory Uses	-	-	25	5	5 <sup>1</sup>	20 <sup>7</sup>	10% <sup>2</sup>

<sup>1</sup> See Section 4.12.04

<sup>2</sup> Provide total area of accessory structure for single family on lots of 7,500 square feet does not exceed 864 sq. ft. and the total lot coverage of all buildings does not exceed 50%; accessory structures on tracts with square footage greater than 7,500 square feet shall not exceed the footprint of the primary structure in any case and shall not exceed 15% of lot coverage. Contiguous lots comprising such tracts, when their total is used for computation of accessory building size, shall be merged as one parcel by a filing with the Register of Deeds.

<sup>3</sup> Minimum Lot Size of 7,500 Square Feet

<sup>4</sup> 10 feet side yard setback if over 30 feet in Height

<sup>5</sup> See Section 4.22

<sup>6</sup> The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot or property line

<sup>7</sup> Maximum height for detached accessory structures shall be measured from the floor to the midpoint of a pitch roof; in no case shall the height of an accessory structure exceed the height of the primary structure.

**Section 5.10 RM Mobile Home Residential District**

5.10.01 *Intent:* The intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home court is appropriate, where such development is recognized as being in the best interests of the citizens and taxpayers of Wahoo.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

5.10.02 *Permitted Principal Uses.*

1. Places of worship such as churches, synagogues and temples
2. Mobile home dwelling.
3. Multi-unit dwellings provided such use is part of a Residential/Mixed Use District.
4. Public parks, playgrounds, buildings and grounds
5. Public and private nursery, primary and secondary education structures pursuant to Section 7.19.
6. Single family dwelling.

5.10.03 *Conditional Uses:*

1. Family Child Care Home II
2. Child Care Center and Nursery school
3. Cemeteries, crematories, mausoleums and columbaria.

5.10.04 *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Home occupation, pursuant to Section 7.10
3. Fences as provided for in Section 7.12.
4. Parking pursuant to Sections 7.01 - 7.05.
5. Signs pursuant to Sections 7.06 – 7.09
6. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.
7. Decks, gazeboes, elevated patios either attached or detached.
8. Dish antennas/mini dishes in conformance with Section 7.11.
9. Carports in conformance with Section 4.12
10. Family Child Care Home I

5.10.05 *Area and Lot Requirements:*

1. A mobile home park shall have an area of not less than five acres. No mobile homes or other structures shall be located less than 83 feet from the road centerline when contiguous to or having frontage to a County road or state highway. The setback on all other court property lines shall be 25 feet. These areas shall be landscaped. The minimum lot width for a mobile home court shall be 200 feet.
2. Each lot provided for occupancy of a single mobile home shall have an area of not less than 5,000 square feet, excluding road R.O.W., and a width of not less than 50 feet for an interior lot, 80 feet for a corner lot, or 45 feet when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:
  - a. Side yards shall not be less than eight feet on one side and not less than eight feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of 30 feet on the side abutting a street/road.
  - b. Front yard of not less than 30 feet.
  - c. A rear yard of not less than 25 feet.
  - d. There shall be a minimum livable floor area of 500 square feet in each mobile home.
3. Height of Buildings.
  - a. Maximum height for principal uses: 35 feet.
  - b. Maximum height for accessory uses: 20 feet.
4. Each lot shall have access to a hard surfaced drive not less than 22 feet in width excluding parking.
5. Community water and community sewage disposal facilities shall be provided with connections to each lot. The water supply shall be sufficient for domestic use and for fire protection.
6. Service buildings including adequate laundry and drying facilities, and toilet facilities for mobile homes which do not have these facilities within each unit.

7. Not less than eight percent of the total court area shall be designated and used for park, playground and recreational purposes.
8. Storm shelters shall be required and shall meet the following criteria:
  - a. Shelter space equivalent to two persons per mobile home lot,
  - b. Designed in conformance with “National Performance Criteria for Tornado Shelters” by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
  - c. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
9. All trailer pad locations shall be hard surfaced with properly reinforced Poured in Place Concrete.
10. All trailers shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.

5.10.06 *Plan Requirements:*

A complete plan of the mobile home court shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.
9. Location and number of storm shelters proposed for the development.
10. Specifications, drawings and design calculations for all storm shelters on the park.



**Section 5.11 NRC - Neighborhood Residential Commercial District.**5.11.01 *Intent:*

The Neighborhood Residential Commercial (NRC) District is intended primarily for the provision of retail and personnel service facilities and mixed residential uses.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

5.11.02 *Permitted Uses:* The following shall be permitted uses by right:

1. Single Family Dwellings
2. Two Family Dwellings
3. Multi-Family Dwellings
4. Townhouses pursuant to Section 7.22
5. Condominiums
6. Public and private nursery, primary and secondary education structures pursuant to Section 7.19
7. Business Offices not including those uses defined as Adult Establishments
8. Professional Offices not including those uses defined as Adult Establishments
9. Retail Stores and service providers, not including those uses defined as Adult Establishments, which provide commodities and services primarily to meet the needs of residents in one or more residential neighborhoods, including:
  - a. Apparel stores
  - b. Banks, including automatic teller machines (ATM's)
  - c. Bookstores or rental libraries
  - d. Barber shops and beauty shops
  - e. Delicatessens
  - f. Drugstores
  - g. Dairy stores
  - h. Bakery goods stores
  - i. Florists
  - j. Gift Shops
  - k. Hardware Stores
  - l. Hobby and art supply stores
  - m. Dress making, altering, and repairing of wearing apparel
  - n. Photographer, film sales and development
  - o. Shoe Stores
  - p. Soda Fountains
  - q. Variety Stores not including those uses defined as "Big Box Retail"
  - r. Hotels/Motels
  - s. Restaurants, Tea rooms, Cafes, coffee houses, outdoor cafés, and sidewalk cafés
10. Private Club/Lodge not including those uses defined as Adult Establishments
11. Medical clinics and Hospitals
12. Public uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems pursuant to Section 7.20
13. Places of worship such as churches, synagogues and temples
14. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment

5.11.03 *Conditional Uses:* A building or premises may be used for the following purposes in the NRC District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Family Child Care Home II
2. Cleaning agencies (pickup and delivery)
3. Food Sales (Limited and General), Supermarkets
4. Taverns, Bars, Brew Pubs, and beer gardens associated with these uses subject to obtaining a Beer Garden Permit as outlined in Municipal Code, not including uses defined in Adult Establishments.
5. Coffee Kiosks
6. Garden Supply Stores, provided that all Equipment, Supplies, and Merchandise, other than plants, shall be kept completely within an enclosed structure and any fertilizer sales be in package form only
7. Self-Service Laundries and dry cleaning establishments
8. Automotive filling station, and/or convenience stores

9. Automobile and light truck carwash
10. Facilities that sell on- or off-sale alcoholic beverages
11. Automobile sales and service
12. Mini-Warehouses subject to the following Conditions:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot area of one acre.
  - c. All storage shall be within enclosed buildings.
  - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
  - e. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. All one-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and one travel lane 15 feet in width. All two-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and two 12-foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
  - f. All lights shall be shielded to direct light away from adjacent properties.
  - g. No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any product shall be permitted.
  - h. The Owner or Operator shall properly police the area for removal of trash and debris.
  - i. Two copies of a plot plan showing ingress and egress, widths of driveways, off-street parking, loading areas, and on-site traffic circulation shall be submitted to the Planning Commission for their consideration with the conditional use application.
  - j. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
13. Bed and Breakfast establishments
14. Semi-truck and Automotive, Fueling and Serving Establishments
15. Farm Implement Sales and Service
16. Expansion of Nonconforming Uses, Structures or Land
17. Retirement and/or nursing home, including Skilled Nursing Facilities, Nursing facilities, and Intermediate Care facilities; Assisted-Living facilities; Adult Day Services; and Intermediate Care Facilities for the Mentally Retarded (ICF/MR)
18. Child Care Center

5.11.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses.
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
4. Temporary structure for festivals or commercial events.

5.11.05 *Permitted Accessory Uses:* The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
2. Solar panels.
3. Parking as required in Section 7.01 - 7.05
4. Landscaping and screening as required in Section 7.15
5. Fences as required in Section 7.12
6. Signs as required in Section 7.06 – 7.09
7. Decks, gazeboes, elevated patios either attached or detached.
8. Home occupations in conformance with Section 7.10
7. Dish antennas/mini dishes pursuant to Section 7.11.
8. Carports in conformance with Section 4.12
9. Family Child Care Home I

5.11.07 *Screening Requirements:*

1. Where a site other than a single or two-family dwelling adjoins or is located across an alley from a single or two-family dwelling in the NRC District, a solid wall, or fence or compact evergreen hedge six feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted or special permitted use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.11.08 *Landscaping Requirements:*

1. Each developed parcel, lot or tract of land, except for single and two family dwellings, in the NRC District shall provide seven feet of landscaping from any designated “Major Arterial” or “Other Arterial” public street property line, into any required front yard.
  - a. One tree shall be planted or maintained for each 500 square feet of landscaped area required under Item No. 1 above.
  - b. Tree species, sizes and spacing shall be consistent with standards on file with the Building Official.
  - c. Upon installation or preservation of required landscape materials, appropriate measure shall be taken to insure their continued health and maintenance. Required materials that do not remain healthy shall be replaced.

5.11.09 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Dwelling	7,500	60	25	7	25 <sup>5</sup>	35	35%
Two Family Dwelling	3,750 per unit	35 per unit	25	5	25 <sup>5</sup>	35	35%
Townhouses	2,520 per unit	18 per unit	25	7 <sup>6</sup>	25 <sup>3</sup>	35	50%
Condominiums	1,500 per unit <sup>3</sup>	25 per unit	25	7	25 <sup>3</sup>	35	50%
Multiple Family Dwelling	1,500 per unit <sup>3</sup>	60	25	5 <sup>4</sup>	25 <sup>5</sup>	40	35%
Commercial Uses	10,000	35	25	7	10	35	35%
Other Uses	10,000	60	25	5	25 <sup>5</sup>	40	35%
Accessory Uses	-	-	25	5	5 <sup>1</sup>	20 <sup>7</sup>	10% <sup>2</sup>

<sup>1</sup> See Section 4.12.04

<sup>2</sup> Provide total area of accessory structure for single family on lots of 7,500 square feet does not exceed 864 sq. ft. and the total lot coverage of all buildings does not exceed 50%; accessory structures on tracts with square footage greater than 7,500 square feet shall not exceed the footprint of the primary structure in any case and shall not exceed 15% of lot coverage. Contiguous lots comprising such tracts, when their total is used for computation of accessory building size, shall be merged as one parcel by a filing with the Register of Deeds.

<sup>3</sup> Minimum Lot Size of 7,500 Square Feet

<sup>4</sup> 10 feet on the side yard setback if over 30 feet in Height

<sup>5</sup> See Section 4.22.

<sup>6</sup> The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot or property line

<sup>7</sup> Maximum height for detached accessory structures shall be measured from the floor to the midpoint of a pitch roof; in no case shall the height of an accessory structure exceed the height of the primary structure.

5.11.10 *Additional height and area requirements are as follows:*

1. Commercial and residential uses may occupy the same lot or tract of land when the total area is large enough to accommodate both uses with the above area, setback and parking requirements for each use.

**Section 5.12 C-1 Downtown Commercial District.****5.12.01 Intent:**

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

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.12.02 Permitted Uses:** The following shall be permitted as uses by right:

1. Apartments and condominiums on floors other than ground floor.
2. Bakery.
3. Barbershops, beauty parlors and shoe care shops.
4. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
5. Child care centers.
6. Commercial recreation facilities indoor.
7. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment
8. Meeting hall, not including uses defined in Adult Establishment
9. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Antique store
  - b. Apparel Stores
  - c. Automobile parts and supply store
  - d. Bicycle shop
  - e. Communication services including: telegram, email, and facsimile forms of communication
  - f. Computer store
  - g. Exercise, fitness and tanning spa/salon, not including uses defined in Adult Establishment
  - h. Floral shop
  - i. Gift and curio shop not including stores defined as Adult Establishments
  - j. Hardware stores.
  - k. Hobby, craft, toy store
  - l. Jewelry store
  - m. Laundry and dry cleaning pick-up and delivery stations
  - n. Locksmith
  - o. Picture framing shop
  - p. Second hand stores
  - q. Soda fountains
  - r. Video store, not including uses defined in Adult Establishment
  - s. Variety stores selling at retail and/or wholesale
10. Detached banking facilities (ATM).
11. Laundry establishments.
12. Food service, restaurants, cafés, outdoor cafés and sidewalk cafés
13. Coffee Houses, Tea Rooms
14. Taverns not including beer gardens and stores defined as Adult Establishments.
15. Brew pubs where it is included with a restaurant facility not including stores defined as Adult Establishments.
16. Museums and art galleries.
17. Nursery, primary and secondary education pursuant to Section 7.19.
18. Personal and professional services not including stores defined as Adult Establishments.
19. Photography studios not including stores defined as Adult Establishments.
20. Public and private charitable institutions.
21. Public parks, buildings and grounds.
22. Public uses including administrative, public service, and cultural facilities, including City, County, State or Federal administrative centers, courts, libraries, police and fire stations and other public buildings, structures, and facilities.
23. Public and private utility facilities pursuant to Section 7.20.

24. Sales and showrooms, including service facilities and the rental of equipment, provided all displays and merchandise are within the walls of the buildings.
25. Medical clinics and Hospitals
26. Private Club/Lodge not including stores defined as Adult Establishments
27. Dressmaking, altering, and repairing of wearing apparel.

5.12.03 *Conditional Uses:* A building or premises may be used for the following purposes in the C-1 Downtown Commercial District if a Conditional Use Permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Expansion of Nonconforming Uses, Structures or Land.
2. Automotive filling station, convenience stores and/or service station, provided all displays, merchandise and service work are confined within the walls of the premises.
3. Funeral Homes and Mortuaries.
4. Food storage lockers including processing.
5. Bed and Breakfast
6. Recycling Center for small item drop off.
7. Food Sales (Limited and General).
8. Dry cleaners – establishments (not over 2,000 sq. ft. in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
9. Mini-Warehouses subject to the following Conditions:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot area of one acre.
  - c. All storage shall be within enclosed buildings.
  - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
  - e. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. All one-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and one travel lane 15 feet in length. All two-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and two 12-foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
  - f. All lights shall be shielded to direct light away from adjacent properties.
  - g. No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any product shall be permitted.
  - h. The Owner or Operator shall properly police the area for removal of trash and debris.
  - i. Two copies of a plot plan showing ingress and egress, widths of driveways, off-street parking, loading areas, and on-site traffic circulation shall be submitted to the Planning Commission for their consideration with the conditional use application.
  - j. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
10. Kennels, boarding and training, subject to the following conditions:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot size of 10,000 sq. ft.
  - c. All activity shall be located within a completely enclosed building with soundproofing and odor control.
  - d. Outdoor kennels shall be prohibited.
  - e. The establishment shall have a minimum of two outdoor fenced dog run/exercise areas. Each outdoor dog run/exercise areas shall be a minimum of 1,200 sq. ft. and be located on a different side of the building. Animals have access to these exercise runs during the day but shall not be kenneled outside.
  - f. The establishment shall have an indoor dug run/exercise area with a minimum of 1,500 sq. ft.
  - g. No animal breeding shall be allowed.
  - h. A dog run/exercise area shall not be located in the front yard setback of any street. A solid wall or privacy fence six feet in height shall be required on the exterior of all dog runs.
  - i. Potentially dangerous dogs as defined in municipal code will not be boarded.

- j. The establishment shall meet all requirements of State of Nebraska for licensing of the kennel/boarding operation.
- k. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
- 11. Beer Gardens associated with taverns, subject to obtaining a Beer Garden Permit as outlined in Municipal Code.
- 12. Light auto body repair and paint, excluding heavy trucks and machinery.
- 13. Coffee Kiosks

5.12.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Temporary greenhouses.
- 2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.
- 3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 4. Temporary structure for festivals or commercial events.

5.12.05 *Permitted Accessory Uses:* The following accessory uses and structures shall be permitted.

- 1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
- 2. Parking as required in Section 7.01 - 7.05
- 3. Landscaping and screening as required in Section 7.15
- 4. Fences as required in Section 7.12
- 5. Signs as required in Section 7.06 – 7.09
- 6. Home occupations in conformance with Section 7.10
- 7. Carports behind buildings and adjacent to alleys in conformance with Section 4.12
- 8. Dish antennas/mini dishes pursuant to Section 7.11.

5.12.06 *Height and Area Regulations:*

- 1. No area requirements; except where a C-1 Commercial District abuts a residential district, a yard requirement shall be 20 feet and it shall be provided between the permitted structure and the district boundary.

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	-	22	-	-	-	45	-
Conditional Uses	-	22	-	-	-	45	-

5.12.07 *Miscellaneous Provisions:*

- 1. Supplementary regulations shall be complied with as defined herein.
- 2. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 4. Where a site adjoins or is located across an alley from a Residential District, a solid wall or fence or compact evergreen hedge six feet in height may be required on the property line common to such districts, except in a required front yard.
- 5. Open storage of materials attendant to a permitted use or conditionally permitted use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**5.13 C-2 - Highway Commercial District**5.13.01 *Intent:*

The C-2 Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

5.13.02 *Permitted Uses:* The following shall be permitted as uses by right:

1. Automobile sales.
2. Car washes.
3. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
4. Places of worship such as churches, synagogues and temples
5. Construction sales and services (plumbing, electrical).
6. Commercial operations and businesses, intended for the purpose of servicing travel and recreational users.
7. Commercial recreational facilities (bowling alleys, miniature golf courses and similar uses not including stores defined as Adult Establishments).
8. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment
9. Meeting hall, not including uses defined in Adult Establishment
10. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Antique store
  - b. Automobile parts and supply store
  - c. Barber and Beauty shop
  - d. Bicycle shop
  - e. Communication services including: telegram, email, and facsimile forms of communication
  - f. Computer store
  - g. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment
  - h. Floral shop
  - i. Gift and curio shop
  - j. Hobby, craft, toy store
  - k. Jewelry store
  - l. Laundry and dry cleaning pick-up and delivery stations
  - m. Locksmith
  - n. Photographer
  - o. Picture framing shop
  - p. Second hand stores
  - q. Soda fountains.
  - r. Variety stores except those defined as a "Big Box".
  - s. Hardware stores except those defined as a "Big Box".
  - t. Tanning salon
  - u. Video store, not including uses defined in Adult Establishment
  - v. Social club and fraternal organizations, not including uses defined in Adult Establishment
  - w. Telephone answering service
11. Detached banking facilities (ATM).
12. Public and private utility facilities shops and offices pursuant to Section 7.20.
13. Farm implements sales and services.
14. Garden centers and nurseries.
15. Irrigation equipment sales and services.
16. Mobile homes sales.
17. Motels, including accessory service uses, such as swimming pools and restaurants not including stores defined as Adult Establishments.
18. Restaurants including drive-ins and facilities having drive through lanes, and cafés, outdoor cafés, and sidewalk cafés.

19. Liquor Stores
20. Automobile service stations.
21. Stores or shops for sale of goods at retail.
22. Medical clinics and Hospitals
23. Convenience store including fuel sales.
24. Food Sales (Limited and General)

5.13.03 *Conditional Uses:* A building or premises may be used for the following purposes in the C-2 Highway Commercial District if a Conditional Use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Private clubs and lodges
2. Radio studios, transmitters and antenna.
3. Big Box Retail Stores
4. Shopping centers.
5. Commercial strip shopping centers.
6. Dry cleaners – establishments (not over 2,000 sq. ft. in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
7. Semi-truck and automotive, fueling and servicing establishments including Truck Stops.
8. Expansion of nonconforming uses, structures or land.
9. Mini-Warehouses subject to the following design criteria are met:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot area of one acre.
  - c. All storage shall be within enclosed buildings.
  - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
  - e. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. All one-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and a travel lane of at least 15 feet in width. All two-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and two 12-foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
  - f. All lights shall be shielded to direct light away from adjacent properties.
  - g. No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any product shall be permitted.
  - h. The Owner or Operator shall properly police the area for removal of trash and debris.
  - i. Two copies of a plot plan showing ingress and egress, widths of driveways, off-street parking, loading areas, and on-site traffic circulation shall be submitted to the Planning Commission for their consideration with the conditional use application.
  - j. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
10. Manufacture, assembly, molding or preparation of products that include the use of sheet metal, canvas, cloth/textiles, ceramics, plaster, wood, and/or concrete, provided that the following criteria are met:
  - a. The construction of a structure for this use shall be in a manner sensitive to the commercial structures adjacent to the property.
  - b. All activities involved with the manufacturing, assembly, molding and preparation with the use are performed within the confines of the structure.
  - c. All final products may be regulated to minimize the creation and manufacturing of the primary materials on-site.
  - d. Any creation and manufacturing of the primary materials on-site shall be limited to the confines of the primary structure(s).
  - e. Storage of raw materials outside of the primary structure(s) shall be prohibited.
  - f. Any outside storage of the finished product/material shall be within a fenced area. Said fenced area shall be constructed in a manner that creates an opaque screen.
  - g. The use shall create a minimal amount of dust, noise, vapors, and vibration.
  - h. The use of toxic and hazardous materials is expressly prohibited for these uses within the C-2 District.



11. Taverns, bars, brew pubs, and beer gardens associated with these uses subject to obtaining a Beer Garden Permit as outlined in Municipal Code, not including uses defined in Adult Establishment.

5.13.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses.
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
4. Temporary structure for festivals or commercial events.

5.13.05 *Permitted Accessory Uses:* The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
2. Parking as required in Section 7.01 - 7.05
3. Landscaping and screening as required in Section 7.15
4. Fences as required in Section 7.12
5. Signs as required in Section 7.06 – 7.09
6. Dish antennas/mini dishes pursuant to Section 7.11.

5.13.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	15,000	100	25	10 <sup>1</sup>	20	45	50%
Conditional Uses	15,000	100	25	10 <sup>1</sup>	20	45	50%
Accessory Uses	-	-	25	10 <sup>1</sup>	20	45	10%

- 1 Side Yard setback shall be increased to 20 feet when adjacent to a Residential District

5.13.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein.
2. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. Where a site adjoins or is located across an alley from a Residential District, a solid wall or fence or compact evergreen hedge six feet in height may be required on the property line common to such districts, except in a required front yard.
6. Open storage of materials attendant to a permitted use or conditionally permitted use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**Section 5.14 C-3 General Commercial District****5.14.01 Intent:**

The General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.14.02 Permitted Uses:** The following shall be permitted as uses by right:

1. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
2. Child care center.
3. Academies, including dance, music, gymnastics, or martial arts, not including uses defined in Adult Establishment
4. Meeting hall, not including uses defined in Adult Establishment
5. Retail business or service establishment supplying commodities or performing services not including those uses defined as Adult Establishments, such as, or in compatibility with and including the following:
  - a. Antique store
  - b. Automobile parts and supply store
  - c. Barber and Beauty shop
  - d. Bicycle shop
  - e. Communication services including: telegram, email, and facsimile forms of communication
  - f. Computer store
  - g. Exercise, fitness and tanning spa/salon, not including uses defined in Adult Establishment
  - h. Floral shop
  - i. Gift and curio shop
  - j. Hobby, craft, toy store
  - k. Jewelry store
  - l. Laundry and dry cleaning pick-up and delivery stations
  - m. Locksmith
  - n. Photographer
  - o. Picture framing shop
  - p. Restaurants including drive-ins and facilities having drive through lanes, outdoor cafés, and sidewalk cafés
  - q. Second hand stores
  - r. Video store, not including uses defined in Adult Establishment
  - s. Social club and fraternal organizations, not including uses defined in Adult Establishment
  - t. Telephone answering service
  - u. Hardware stores except those defined as a “Big Box”
  - v. Soda fountains.
  - w. Variety stores except those defined as a “Big Box”
  - x. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least 100 feet away from any (R) District boundary
  - y. Monument sales
6. Personal and professional services not including stores defined as Adult Establishments
7. Photography studios not including stores defined as Adult Establishments
8. Public and private charitable institutions
9. Public parks, buildings and grounds
10. Public uses including administrative, public service, and cultural facilities, including City, County, State or Federal administrative centers, courts, libraries, police and fire stations and other public buildings, structures, and facilities
11. Public and private utility facilities pursuant to Section 7.20
12. Food Sales (limited and General)

5.14.03 *Conditional Uses:* A building or premises may be used for the following purposes in the C-3 General Commercial District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Dry cleaners – establishments (not over 2,000 sq. ft. in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents
2. Recreational establishments not including uses defined in Adult Establishments
3. Business or trade school
4. Garden supply, retail garden center, and commercial greenhouses
5. Liquor store
6. Taverns, bars, brew pubs, and beer gardens associated with these uses subject to obtaining a Beer Garden Permit as outlined in Municipal Code, not including uses defined in Adult Establishment
7. Car washes
8. Outdoor Entertainment
9. Convenience store with limited fuel sales
10. Residences in conjunction with the principal use when located above the ground floor
11. Churches, temples, seminaries, and convents including residences for teachers and pastors
12. Printing and publishing
13. Retail motor vehicle sales and service
14. Multi-family dwelling units
15. Service station and minor automobile repair services
16. Tire store and minor automobile repair service
17. Public Utility offices, garages, and dispatcher centers pursuant to Section 7.20
18. Mini-Warehouses subject to the following Conditions:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot area of one acre.
  - c. All storage shall be within enclosed buildings.
  - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
  - e. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. All one-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and one travel lane 15 feet in length. All two-way driveways that provide direct access to cubicles shall provide for one 10-foot parking land and two 12-foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
  - f. All lights shall be shielded to direct light away from adjacent properties.
  - g. No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any product shall be permitted.
  - h. The Owner or Operator shall properly police the area for removal of trash and debris.
  - i. Two copies of a plot plan showing ingress and egress, widths of driveways, off-street parking, loading areas, and on-site traffic circulation shall be submitted to the Planning Commission for their consideration with the conditional use application.
  - j. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
19. Light auto body repair and paint, excluding heavy trucks and machinery
20. Hotels, including accessory service uses, such as swimming pools and restaurants not including stores defined as Adult Establishments
21. Construction sales and services (plumbing, electrical, HVAC)

5.14.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances

3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
4. Temporary structure for festivals or commercial events

5.14.05 *Permitted Accessory Uses and Structures:* The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
2. Parking as required in Section 7.01 - 7.05
3. Landscaping and screening as required in Section 7.15
4. Fences as required in Section 7.12
5. Signs as required in Section 7.06 – 7.09
6. Dish antennas/mini dishes pursuant to Section 7.11.

5.14.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows: The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	(3)	-	25	(1)	(2)	45	40%
Multi-family Residential	1,500 per unit (3)	-	25	(1)	(2)		40%
Conditional Uses	1,500 per unit	-	25	(1)	(2)	45	40%
Accessory Uses	-	-	25	(1)	(2)	45	10%

1. None, except that when adjacent to any residential district, the side yard setback shall be 25 feet.
2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet, unless there is an alley between the two, in which case the rear yard setback shall be five feet.
3. Minimum Lot Area to be calculated based upon Maximum Lot Coverage, Building footprint, and required ancillary uses like parking and landscaping and Section 5.10.06 unless otherwise noted.
4. A front yard setback of 25 feet is required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet.

5.14.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein.
2. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. Where a site adjoins or is located across an alley from a Residential District, a solid wall or fence or compact evergreen hedge six feet in height may be required on the property line common to such districts, except in a required front yard.
6. Open storage of materials attendant to a permitted use or conditionally permitted use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**Section 5.15 I-1 - Light Industrial.****5.15.01 Intent:**

This district will provide space for a wide range of industrial uses and structures which are able to meet certain performance standards to protect nearby non-commercial and non-individual uses from undesirable environmental conditions.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

Adult Entertainment Facilities are included in this Zoning District. The intent of the Wahoo Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

**5.15.02 Permitted Uses:** The following shall be permitted as uses by right:

1. Assembly, manufacture, or preparation of articles and merchandise from the following types of previously prepared materials; bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, honey, horn, lacquer, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, wire, wood (excluding sawmills, lumber mills, planning mills, and molding plants), yarn, or paint not employing a boiling process.
2. Assembly of electrical appliances or equipment, electronic instruments and devices, radios, phonographs, television, including the manufacture of small parts such as coils, condensers, transformers, crystal holders.
3. Assembly of metal products.
4. Manufacture of figurines, pottery, or similar ceramic products using only previously pulverized clay.
5. Manufacture of musical instruments, novelties, rubber or metal stamps, toys.
6. Manufacture of optical goods, scientific or precision instruments or equipment.
7. Manufacture of artificial limbs, dentures, hearing aids, surgical instruments or dressings, or other devices employed by the medical and dental professions.
8. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products or meat, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, except that the rendering of fat or oil; fish or meat slaughtering; and processing of fermented food such as sauerkraut, vinegar, or yeast shall be excluded.
9. Manufacture or maintenance of billboards, commercial advertising structures, or name plates.
10. Auto, truck, trailer, or boat storage; truck rental or sales.
11. Automobile painting or upholstery.
12. Building of marine pleasure craft.
13. Building materials storage or sale yard.
14. Bottling Plant.
15. Cabinet or carpenter's shop.
16. Coin machine manufacturer or repair.
17. Contractor's equipment storage.
18. Cold storage plant.
19. Dairy products processing.
20. Dwelling for caretaker or watchman working on the property.
21. Electroplating shop.
22. Equipment sales, rental, storage, or repair.
23. Farm machinery sales or service.
24. Fuel supply outlet or distributor, providing no dust is produced.
25. Laundry, dry cleaning, dyeing, or rug cleaning plant.
26. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
27. Sheet metal shop or other metal working shop, machine shop not using drop hammer or punch press.
28. Plumbing contractor.
29. Warehousing.
30. Welding shop.
31. Wholesale distributor or outlet.
32. Truck and freight terminal or motor freight terminal

5.15.03 *Conditional Uses:* A building or premises may be used for the following purposes in the I-1 Industrial District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Alcohol distillation and blending plants, including Ethanol processing facilities.
2. Mini-Warehouses subject to the following Conditions:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot area of one acre.
  - c. All storage shall be within enclosed buildings.
  - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
  - e. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. All one-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and one travel lane 15 feet in length. All two-way driveways that provide direct access to cubicles shall provide for one 10-foot parking land and two 12-foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
  - f. All lights shall be shielded to direct light away from adjacent properties.
  - g. No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any product shall be permitted.
  - h. The Owner or Operator shall properly police the area for removal of trash and debris.
  - i. Two copies of a plot plan showing ingress and egress, widths of driveways, off-street parking, loading areas, and on-site traffic circulation shall be submitted to the Planning Commission for their consideration with the conditional use application.
  - j. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
3. Expansion of nonconforming uses, structures or land.
4. Child Care Center as a secondary use within the primary Industrial use.
5. Storage of Fireworks as defined by Neb. Rev. Stat. §28-1241 (Reissue of 1997)
6. Adult Entertainment establishments per Section 7.26
7. Recycling and reloading small caliber ammunition for commercial use, subject to the following:
  - a. Ammunition will not exceed .50 caliber
  - b. Smokeless powder storage will not exceed 600 lbs. and shall be in ATF approved storage
  - c. All storage shall be within enclosed buildings

5.15.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses.
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
4. Temporary structure for festivals or commercial events.

5.15.05 *Permitted Accessory Uses:* The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
2. Parking as required in Section 7.01 - 7.05
3. Landscaping and screening as required in Section 7.15
4. Fences as required in Section 7.12
5. Signs as required in Section 7.06 – 7.09
6. Dish antennas/mini dishes pursuant to Section 7.11.

5.15.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	-	-	25	10 <sup>1</sup>	10 <sup>1</sup>	45	50%
Conditional Uses	-	-	25	10	20	45	50%

<sup>1</sup> Setback shall be increased to 20 feet when adjacent to a Residential District

5.15.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein.
2. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district.
3. All waste material shall be screened from view with a solid fence.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. Where a site adjoins or is located across an alley from a Residential District, a solid wall or fence eight feet in height may be required on the property line common to such districts, except in a required front yard.

**Section 5.16 I-2 - Heavy Industrial.**

5.16.01 *Intent:* The intent of this District space for some commercial and a wide range of industrial uses.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

Adult Entertainment Facilities are included in this Zoning District. The intent of the Wahoo Zoning Ordinance is not to prohibit these uses, but to regulate the secondary effects of these uses within the community.

5.16.02 *Permitted Uses:* The following shall be permitted as uses by right:

1. Assembly, manufacture, or preparation of articles and merchandise from the following types of previously prepared materials; bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, honey, horn, lacquer, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, wire, wood (excluding sawmills, lumber mills, planning mills, and molding plants), yarn, or paint not employing a boiling process.
2. Assembly of electrical appliances or equipment, electronic instruments and devices, radios, phonographs, television, including the manufacture of small parts such as coils, condensers, transformers, crystal holders.
3. Assembly of metal products.
4. Manufacture of figurines, pottery, or similar ceramic products using only previously pulverized clay.
5. Manufacture of musical instruments, novelties, rubber or metal stamps, toys.
6. Manufacture of optical goods, scientific or precision instruments or equipment.
7. Manufacture of artificial limbs, dentures, hearing aids, surgical instruments or dressings, or other devices employed by the medical and dental professions.
8. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products or meat, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries.
9. Rendering of fat or oil; fish or meat slaughtering; and processing of fermented food such as sauerkraut, vinegar, or yeast.
10. Manufacture or maintenance of billboards, commercial advertising structures, or name plates.
11. Auto, truck, trailer, or boat storage; truck rental or sales.
12. Automobile painting or upholstery.
13. Building of marine pleasure craft.
14. Building materials storage or sale yard.
15. Bottling Plant.
16. Cabinet or carpenter's shop.
17. Coin machine manufacturer or repair.
18. Contractor's equipment storage.
19. Cold storage plant.
20. Dairy products processing.
21. Dwelling for caretaker or watchman working on the property.
22. Electroplating shop.
23. Ethanol Plants.
24. Equipment sales, rental, storage, or repair.
25. Farm machinery sales or service.
26. Fuel supply outlet or distributor, providing no dust is produced.
27. Laundry, dry cleaning, dyeing, or rug cleaning plant.
28. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
29. Sheet metal shop or other metal working shop, machine shop not using drop hammer or punch press.
30. Plumbing contractor.
31. Warehousing.
32. Welding shop.
33. Wholesale distributor or outlet.
34. Truck and freight terminal or motor freight terminal
35. Aircraft manufacture.
36. Alcoholic beverage manufacture.
37. Asphalt or concrete mixing plant.



38. Automobile manufacture.
39. Brick, tile, terra cotta or clay products manufacture.
40. Coal and petroleum products, refining or wholesale storage of petroleum.
41. Concrete, cinder, pumice block manufacture.
42. Emery cloth or sand paper manufacture.
43. Flour and feed milling and storage.
44. Forge plant.
45. Gas (illuminating or heating).
46. Glucose or starch manufacture.
47. Iron, steel, brass or copper foundry, fabrication or works.
48. Nitrating process.
49. Oilcloth or linoleum manufacture.
50. Oiled rubber or leather goods manufacture.
51. Rock crushers.
52. Rolling mills.
53. Rubber, natural or synthetic, or treatment from crude or scrap materials or the manufacture of articles therefrom.
54. Sawmills.
55. Soap manufacture.
56. Stone mill.
57. Sugar manufacture.
58. Tar or asphalt roofing or waterproofing manufacture.
59. Adult Establishments per Section 7.26

5.16.03 *Conditional Uses:* A building or premise may be used for the following purposes in an I-2 District if a special permit for such a use has been obtained in accordance with Article 6 of these regulations.

1. Abattoirs or slaughter houses, including meat packing plants.
2. Automobile or machine wrecking and salvage yards.
3. Crematory.
4. Dye stuff manufacture.
5. Fat rendering or tallow, grease or lard refining or manufacturing of products from fats.
6. Fertilizer and industrial chemical manufacture.
7. Fireworks or explosive manufacture or storage or the handling or explosives.
8. Gas manufacture or storage (other than illuminating or heating).
9. Gelatin, glue or size manufacture or process involving recovery from animal material.
10. Incineration of other reduction of garbage.
11. Junk yards, including the handling and bailing of paper, rags, or junk of other description pursuant to Section 7.21.
12. The manufacture of cement, lime, gypsum or plaster of paris.
13. Pulp mills.
14. Pyroxylin or celluloid manufacture, or explosives or inflammable cellulose or pyroxylin products manufacture.
15. Stock yards.
16. Tanning, curing, or storage of raw hides or skins.
17. Paper Manufacturing
18. Mini-Warehouses subject to the following Conditions:
  - a. The use must be located contiguous to an arterial street as designated in the Comprehensive Plan.
  - b. There shall be a minimum lot area of one acre.
  - c. All storage shall be within enclosed buildings.
  - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
  - e. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. All one-way driveways that provide direct access to cubicles shall provide for one 10-foot parking lane and one travel lane 15 feet in length. All two-way driveways that provide direct access to cubicles shall provide for one 10-foot parking land and two 12-foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
  - f. All lights shall be shielded to direct light away from adjacent properties.

- g. No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any product shall be permitted.
  - h. The Owner or Operator shall properly police the area for removal of trash and debris.
  - i. Two copies of a plot plan showing ingress and egress, widths of driveways, off-street parking, loading areas, and on-site traffic circulation shall be submitted to the Planning Commission for their consideration with the conditional use application.
  - j. The Planning Commission and City Council may attach such other conditions as deemed necessary to provide for compatible development.
19. Expansion of nonconforming uses, structures or land.

5.16.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Temporary greenhouses.
- 2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.
- 3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 4. Temporary structure for festivals or commercial events.

5.16.05 *Permitted Accessory Uses:* The following accessory uses and structures shall be permitted.

- 1. Accessory uses and structures normally appurtenant to the permitted uses and structures.
- 2. Parking as required in Section 7.01 - 7.05
- 3. Landscaping and screening as required in Section 7.15
- 4. Fences as required in Section 7.12
- 5. Signs as required in Section 7.06 – 7.09
- 6. Dish antennas/mini dishes pursuant to Section 7.11.

5.16.06 *Height and Lot Requirements:*

- 1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. Ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	-	-	25	10 <sup>1</sup>	10 <sup>1</sup>	45	50%
Conditional Uses	-	-	25	10	20	45	50%

<sup>1</sup> Setback shall be increased to 20 feet when adjacent to a Residential District

5.16.07 *Miscellaneous Provisions:*

- 1. Supplementary regulations shall be complied with as defined herein.
- 2. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district.
- 3. All waste material shall be screened from view with a solid fence.
- 4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5. Where a site adjoins or is located across an alley from a Residential District, a solid wall or fence eight feet in height may be required on the property line common to such districts, except in a required front yard.

## SECTION 5.17 FF/FW FLOOD PLAIN DISTRICTS

5.17.01 *Statutory Authorization*

The legislature of the State of Nebraska has in Sec. 19-901 R.R.S. 1943 delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the health, safety and general welfare. The Legislature, in Section 31-1001 to 31-1022, R.R.S. 1943 (as amended) has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the Mayor and City Council of the City of Wahoo, Nebraska, ordains as follows:

5.17.02 *Findings of Fact*1. **Flood Losses Resulting from Periodic Inundation**

The flood hazard areas of Wahoo, Nebraska, 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.

2. **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, (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.

5.17.03 *Methods Used To Analyze Flood Hazards.* This ordinance 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 inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, Saunders County, Nebraska and Incorporated Areas, and illustrative materials dated August 3, 2016 as amended.
2. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
3. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
4. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
5. Delineation of floodway fringe, i.e. that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

5.17.04 *Statement of Purpose*

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 5.17.02 (2) by applying the provisions of this ordinance to:

1. 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.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

5.17.05 *Zoning Administrator Responsibilities*

1. The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and all other Ordinances of the City of Wahoo now in force or hereafter adopted, related to zoning, subdivision or building codes.
2. The Zoning Administrator shall be appointed to these additional responsibilities by of the City Council and his/her appointment shall continue during good behavior and satisfactory service. During

temporary absence or disability of the Zoning Administrator, the City Council of the City shall designate an acting administrator.

#### 5.17.06 *Designation of Current FHBM/FIRM*

The City Council of the City of Wahoo hereby designates the Flood Insurance Rate Map (FIRM) Index # 331155CINDOB Saunders County, Nebraska and Incorporated Areas, dated August 3, 2016, as well as all associated panels, and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.

This ordinance shall apply to all lands within the jurisdiction of the City of Wahoo identified on the Flood Insurance Rate Map (FIRM) Index # 31155CINDOB dated August 3, 2016, as well as all associated panels, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the FF/FW Zoning District established in this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City of Wahoo or its duly designated representative under such safeguards and restrictions as the City of Wahoo 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 in Sections 5.17.09, 5.17.06.1.b and 5.17.06.2.b.

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 Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustments 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 case to the Board of Adjustments and to submit his own technical evidence, if he so desires.

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 maps. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

#### 1. FLOODWAY OVERLAY DISTRICT

- a. 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:
  - i. Agricultural uses such as general farming, pasture, nurseries, forestry.
  - ii. Residential uses such as lawns, gardens, parking and play areas.
  - iii. Non-residential areas such as loading areas, parking and airport landing strips.
  - iv. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
- b. 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 of Section 5.17.09.

#### 2. FLOOD FRINGE OVERLAY DISTRICT (INCLUDING AO AND AH ZONES)

- a. Permitted Uses. Any use permitted in the Floodway Overlay District shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the District unless the standards of Section 5.17.09 are met.
- b. Standards for Flood Fringe Overlay District.
  - i. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.
  - ii. New construction or substantial improvement of non-residential structures shall 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, be designed and floodproofed so that below the level one foot above the base flood 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 subsection are satisfied. Such certification shall be provided to the Zoning Administrator.

- iii. All new construction and substantial improvements that have 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 no 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.
- iv. Appurtenant structures, such as detached garages and storage sheds that are no greater than 400 square feet in area, used exclusively for storage of motor vehicles, and storage of other items readily removable 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.
- v. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- vi. Located within the areas of special flood hazard established in Section 5.17.03 are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one 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 Zoning Administrator.
  3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

#### 5.17.07 *Permits Required*

**Permits 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 in this ordinance.

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

2. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore 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 for which application is made.
  - b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  - c. Indicate the use or occupancy for which the proposed development is intended.
  - d. Be accompanied by plans and specifications for proposed construction.
  - e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  - f. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
  - g. Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot penalty is assessed at the time of rating the structure for the policy premium.)

#### 5.17.08 *Development Permit Application Review*

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law. 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 zones (including AE, AO, and AH zones) unless the conditions of Section 5.17.09 are satisfied.

#### 5.17.09 *All Applications Review*

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 5.17.23 of this Ordinance) will:

1. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas (A Zones) on the official map that the following performance standards be met:
  - a. That 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 shown on the Flood Insurance Study.
  - b. Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
  - c. Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a 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 subsection are satisfied. Such certification shall be provided to the Zoning Administrator.
  - d. Require for all new construction and substantial improvements - That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a

registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of 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 no 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.

2. Require the use of construction materials that are resistant to flood damage.
3. Require the use of construction methods and practices that will minimize flood damage.
4. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures to be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and 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 the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
  - b. Frame ties to 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.
  - d. Any additions to manufactured homes be similarly anchored.
7. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:
  - a. Outside of a manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to an existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "*substantial damage*" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5.17.09 (6).
8. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of Section 5.17.09 (7). be elevated so that either:
  - a. The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5.19.09 (6).
9. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. 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.

**5.17.10 Subdivision Applications**

The Zoning Administrator shall review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

The City Council of the City shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

1. All such proposed developments are consistent with the need to minimize flood damage.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

**5.17.11 Water and Sewage Systems**

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

**5.17.12 Storage of Material and Equipment**

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

**5.17.13 Flood Carrying Capacity Within any Water Course**

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

**5.17.14 Variance Procedures**

1. The Board of Adjustment as established by City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
3. 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 Section 19-912, R.R.S. 1943.
4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and;
  - a. the danger that materials may be swept onto other lands to the injury of others;
  - b. the danger to life and property due to flooding or erosion damage;
  - c. the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. the importance of the services provided by the proposed facility to the community;
  - e. the necessity to the facility of a waterfront location, where applicable;
  - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - f. the compatibility of the proposed use with existing and anticipated development;



- g. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h. the safety of access to the property in times of flood for ordinary and emergency vehicles.
    - I. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
    - II. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. *Conditions for Variances*
- a. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (5.17.14 (5) (b-e below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  - b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - d. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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.
  - e. The applicant 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 base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 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 ordinance.

#### 5.17.15 *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 ordinance 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 ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
  - b. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- 2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

#### 5.17.16 *Penalties for Violation*

Violation of the provisions of this ordinance 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 this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00, 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 Council or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

5.17.17 *Abrogation and Greater Restrictions*

It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

5.17.18 *Interpretation*

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

5.17.19 *Warning and Disclaimer or Liability*

The degree of flood protection required by this ordinance 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 man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of The City of Wahoo or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5.17.20 *Severability*

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

5.17.21 *Appeal*

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Appeals.

5.17.22 *Conflicting Ordinances*

This ordinance shall take precedence over conflicting Ordinances or parts of Ordinances. The City Council of the City of Wahoo may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

5.17.23 *Definitions*

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

**"Appeal"** means a request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or a request for a variance.

**"Appurtenant Structure"** shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure.

**"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent 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"** means the flood having one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Development"** means any man-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”** means (for the purpose of determining rates) structures for which the “start of construction” commenced before the effective date of the FIRM or before January 11, 1975, for FIRMs effective before that date. “Existing Construction” may also be referred to as “existing structures.”

**“Existing Manufactured Home Park or Subdivision”** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**“Expansion to an Existing Manufactured Home Park or Subdivision”** means 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** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**“Flood Fringe”** is that 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 one percent chance of flood occurrence in any one year).

**“Flood Insurance Rate Map (FIRM)”** means 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”** is 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”** means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

**“Floodproofing”** means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**“Floodway” or “Regulatory Floodway”** means the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**“Freeboard”** means 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 of urbanization of the watershed.

**“Highest Adjacent Grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**“Historic Structure”** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or 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"** means 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 ordinance.

**"Manufactured Home"** means 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"** means 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, "new construction" means 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"** means 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.

**"Obstruction"** shall mean any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel, rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either by itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Nebraska Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (Section 46-1601 to 46-1670 R.R.S., 1943 as amended.)

**"100-Year Flood"** means the condition of flooding having a one percent chance of annual occurrence.

**"Overlay District"** is 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"** means that at least 51 percent of the actual cash value of the structure is above ground.

**"Recreational Vehicle"** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Regulatory Flood Elevation"** means the water surface elevation of the 100-year flood.

**"Special Flood Hazard Area"** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

**"Start of Construction"** [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured

home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**"Structure"** means 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"** means 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 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Variance"** means a grant of relief to a person from the terms of a floodplain management ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

**Section 5.18 Residential / Mixed use Development District (RMD).****5.18.01 Intent:**

The Residential / Mixed use Development District (RMD) is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, while promoting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.18.02 Permitted Uses:** The following uses are permitted in the Residential / Mixed use Development District provided the requirements of this Article are met.

1. Single-family dwellings
2. Townhouses pursuant to Section 7.22 and Condominiums containing three or fewer dwellings

**5.18.03 Conditional Uses:** The following uses may be allowed through the approval of a Conditional Use Permit, as established by this Ordinance, provided all noted, as well as any special conditions required by the City Council are met.

1. Churches, temples, seminaries, and convents, including residences for pastors and teachers.
2. Private recreation areas and facilities, including lakes, ponds, country clubs, golf courses, and swimming pools.
3. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
4. Commercial uses provided the following are met as a minimum:
  - a. Established as part of a mixed use development
  - b. That the commercial use is consistent with the residential uses of the development
  - c. The commercial use does not create any secondary effects that impact the health, safety, general welfare and morals of the other uses
  - d. The residential density exceeds the density of the commercial uses
  - e. The commercial uses provide ordinary services associated with residential uses
  - f. The commercial uses provide solid and/or natural buffering when adjacent to residential lots as required in Sections 7.15 of this Ordinance.
  - g. Proper access shall be provided to all commercial uses
5. Multi-family structures containing more than three dwelling units provided the following are met as a minimum:
  - a. Established as part of a mixed use development
  - b. The multi-family density does not exceed the density of the single family density
  - c. The multi-family dwellings provide solid and/or natural buffering when adjacent to single-family lots as required in Sections 7.15 of this Ordinance.
  - d. Proper access shall be provided to all multi-family units
6. Community centers and/or clubhouses provided the Development Plan required under Section 5.18.06(3) below reflects the location of such use and the structure is compatible with other structures within the development.
7. Townhouses pursuant to Section 7.22 and Condominiums containing more than three dwellings.

**5.18.04 Permitted Accessory Uses:**

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses in accordance with Section 4.12 of this Ordinance.
2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
3. Temporary building(s) or structure(s) incidental to construction work may exist on said lot no longer than 60 days from date of expiration of building permit.
4. Signs as required in Section 7.06 – 7.09.
5. Parking as required in Section 7.01 - 7.05.
6. Home Occupations as required in Section 7.10.

5.18.05 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows (the requirements of this district shall override any underlying district):

Uses	Lot Area (Square feet)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Maximum Height (feet)	Max. Lot Coverage (percent)
Single Family	4,000	40	*	*	*	35	*
Multi-Family	1,500 per unit**	60	25	7 or 10 if over 30' in height	25	40	
Townhouses, Condominiums	2,520	25	*	*	*	*	*
Other Permitted Uses	*	*	*	*	*	40	*
Accessory Buildings	---	---	*	*	*	15	*

\* lot and yard requirements are dependent upon the development and may vary depending upon areas being conserved or special amenities being used or established and will be reviewed upon submittal of the Development Plan

\*\* Minimum Lot size is 7,500 square feet.

5.18.06 *Supplemental Requirements*

1. The Planning Commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a RMD plan approval, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.
  - a. Said RMD shall be in general conformity with the provisions of the Wahoo Comprehensive Plan.
  - b. Said RMD shall not have a substantially adverse effect on the development of the neighboring area.
  - c. The minimum size allowed for a RMD District by type of use shall be as follows:
    - Residential (only), three acres;
    - Residential - Commercial (combination), five acres.
  - d. Height, bulk, and yard requirements shall be reflected on the Development Plan and shall promote an efficient and creative use of land.
  
2. Use Limitations:  
In District RMD no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in this District. All uses must be approved as shown on the Development Plan as specified in this division.
  
3. Standards and conditions for development:  
A development proposed for land classified as the RMD district shall be consistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the Development Plan shall, where applicable, reflect compliance.
  - a. The applicant shall satisfy the Planning Commission and City Council that there is the ability to carry out the proposed plan, including financial assurances and the phasing of the project, and shall prepare and submit a schedule of construction, if necessary. The proposed construction shall begin within a period of 12 months following the approval of the final application by the City Council. A minimum of 50 percent of the total planned construction shown on the final plan shall be completed within a period of five years following such approval or the approval shall expire. If the approval expires under this section, the applicant shall show good cause to the Planning Commission to extend the plan approval.
  - b. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the Development Plan and to protect the public interest in the event of abandonment of said plan before completion.

- c. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
- d. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
- e. The entire tract or parcel of land to be occupied by the RMD development shall be held in single ownership or control, or if there are two or more owners, the application for such RMD development shall be filed jointly by all owners. This provision may be waived provided that the land contains existing improvements.
- f. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a RMD development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved as shown on the Development Plan.
- g. Off-street parking and loading shall be provided in accordance with the parking and loading regulations of the City of Wahoo.
- h. When a commercial use within a RMD District abuts a residential district, the Development Plan shall reflect screening consisting of landscaping and/or fencing provided adjacent to any adjoining residential district; except in the event the adjacent residential use and the commercial use are separated by a street right-of-way.
- i. All residential and commercial buildings shall set back not less than 25 feet from the perimeter of the land zoned RMD. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the planning commission for protection of health, safety, and general welfare.
- j. Building coverage area shall not exceed the following percentages of the net developable area of each individual parcel of the total development:
  - Residential: 60 percent maximum;
  - Commercial: 50 percent maximum.

NOTE: Building coverage area, is the area covered by building(s) or structure(s) on each individual lot or parcel (not including such impervious improvements such as but not limited to walkways, driveways, patios etc). The net developable area shall be the area of each parcel and the net of any required yard required under the Development Plan. The Development Plan shall reflect the calculations used to demonstrate compliance with this requirement.

- k. A minimum of 20 percent of the net area of that part of a RMD development reserved for residential use shall be provided for Common Areas as defined by these regulations under subsection (p) below. The term “net area” shall be the gross area, measured in square feet, of the Development Plan devoted to residential use less the area dedicated for public streets. Common Areas shall be defined as playgrounds, street medians, landscaped green space, or other similar areas designed to be used by the residents of the development in common with each other. Common Areas for the leisure and recreation of development residents shall be owned and maintained in common by them, through a homeowner's association.
- l. The RMD District shall include such provisions for the ownership and maintenance of the Common Areas as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community. The applicant shall submit any protective covenants and organizational documents of the homeowner's association with the Development Plan.
- m. No residential use shall have direct access onto an arterial street unless approved by the City Council in the Development Plan.
- n. Any commercial use must reflect its traffic flow on the Development Plan. All commercial areas must have indirect access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
- o. Sidewalks shall be built to City specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the RMD development.



- p. Common Areas as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, community buildings, or accessory structures, except recreational structures. Common Areas shall include open space that is accessible and available to all owners or residents in common pursuant to an Owner's Association.

5.18.07 *Application for approval of Residential / Mixed Use Development:*

1. An application for a RMD shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.
2. The applicant shall prepare and submit 6 copies, plus an electronic file in a ".pdf" format, of the development plan (the "Development Plan") of the proposed development in the RMD District for review and approval by the Planning Commission. The Development Plan shall include:
  - a. A site plan showing:
    - Contours at intervals of two feet or spot elevations on a one hundred foot grid shall be required on flat land;
    - Location, size, height, and use of all proposed structures and proposed yards on each lot;
    - All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
    - All streets adjoining subject property and the width of the existing right-of-way;
    - Areas set aside for Common Areas with the type of use or recreational facilities planned for each;
    - Designation of individual parcels if the proposed development is to be set up in separate construction phases;
    - Designation of individual lots if such lots are proposed to be sold to individual owners;
    - Location of required screening;
    - Location of natural features such as ponds, tree clusters, and rock outcropping;
    - Existing development on adjacent properties within 200 feet.
  - b. The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when, said items are applicable:
    - Net area in square feet of the development. (*Note:* Net area shall be computed as the gross area less the land dedicated or necessary to be dedicated for public street right-of-way.
    - Density of dwelling units per acre of the total dwelling units for the entire plan.
    - Building coverage of the net area of the development by individual parcel or total development.
    - The percentage of the Development Plan provided for common open space as defined by this regulation. (*Note:* 20 percent is the minimum).
    - If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
    - Required number of parking spaces and location.
    - Gross floor area proposed for commercial buildings.
    - All proposed land uses shall be listed by parcel.
  - c. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - d. The full legal description of the boundaries of the property or properties to be included in the RMD development.
  - e. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed RMD development.
  - f. An elevation drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
  - g. When a RMD development includes provisions for common space and/or recreational facilities, a statement describing how such open space and/or facility be owned and maintained when not under the ownership of a governmental entity. A homeowner association or other controlling entity shall provide the City of Wahoo with copies of the proposed articles of incorporation and bylaws of such entity.

3. The Planning Commission shall meet within 45 business days of an application being filed. Plans shall be filed with the City at least four weeks prior to a scheduled Planning Commission meeting in accordance with Appendix "A". After the application for an RMD development is filed, the Planning Commission shall hold a public hearing on said development after giving required notice for hearings in amendments. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the planning commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the Development Plan complies with those regulations, together with its recommendations in respect to the action to be taken on the Development Plan and RMD requirements. The planning commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.
4. The City Council shall or shall not approve the Development Plan and authorize the submitting of the final Development Plan.
5. Substantial or significant changes in the preliminary plat and RMD design shall only be made after rehearing and reapproval unless the changes were otherwise required by the Planning Commission or the City Council.

5.18.08 *Final approval:*

1. After approval of a Development Plan and prior to the issuance of any building permit or zoning permit, the applicant shall submit an application for final approval with the RMD development compliance review committee. The RMD development compliance committee shall consist of members of the Wahoo Planning Commission, Wahoo City Council, the Zoning Administrator, the Wahoo City Attorney, and/ or the Wahoo City Engineer; this committee will be assembled only on an as needed basis. Said final application may include the entire RMD District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include 11 copies of such drawings, specifications, covenants, easements, conditions, and any other conditions including but not limited to performance bonds as set forth in the approval of the Development Plan preliminary plan and in accordance with the conditions established in this chapter for a RMD District. The final plan shall include the same information, as the preliminary plan except the following shall also be provided:
  - a. A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
  - b. Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
  - c. All easements and appropriate building setback lines;
  - d. All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
  - e. Lot and/or parcel numbers;
  - f. Location, size, height, and use of all proposed or present buildings;
  - g. Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.
  - h. A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.
2. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the Development Plan does not:
  - a. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
  - b. Increase by more than 10 percent the floor area proposed for non-residential use; nor
  - c. Increase by more than five percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
  - d. Substantially change the design of the plan so as to significantly alter:
    - Pedestrian or vehicular traffic flow.
    - The juxtaposition of different land uses.
    - The relation of open space to residential development.
    - The proposed phasing of construction.
    - Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.

3. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan. The planning commission shall, within 45 business days of the time of filing, review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
4. In the event that the final plan submitted contains changes in excess of those permitted under Subparagraph (2) above, applicant shall resubmit the original plan. The Development Plan shall be modified in the same manner prescribed in this division as for original approval.

5.18.09 *Enforcement and modification of plan:*

1. To further the mutual interest of the residents and owners of the RMD development and of the public in the preservation of the integrity of the RMD plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:
  - a. The use of land and the use, bulk, and location of buildings and structures; and
  - b. The quality and location of common space; and
  - c. The intensity of use or the density of residential units shall run in favor of the City and
  - d. Shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law. The development of any land pursuant to an approved Development Plan shall be constructed in accordance with the requirements of Section 10 and the approved Development Plan.

5.18.10 *Amendments:*

The RMD District agreement or an approved Development Plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment may be made by the homeowner's association or 51 percent of the owners of the property within the RMD District.

5.18.11 *Platting.*

For unplatted tracts or tracts being replatted, the approval of the Development Plan shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be either 100 feet, 50 feet, or 20 feet to the inch.

5.18.12 *Fees.*

For the following applications, fees shall be paid to the City:

1. Development Plan , filing fee shall be set by the City Council by separate ordinance;
2. Final plan , filing fee shall be set by the City Council by separate ordinance.

These fees are separate and do not include any Preliminary and Final Plat Fees and/or any Change of Zone Fees required by the City of Wahoo.

**Section 5.19 LWC – Lake Wanahoo Conservation District****5.19.01 Intent:**

The intent of this district is to establish development standards that will allow for the continuation of existing land uses while protecting the public's interest. This District shall provide for the possible construction of a flood control and flood mitigation structure on Sand Creek and provide for public outdoor recreation and open space opportunities adjacent to said project. As the primary purpose of this district is the conservation of the area encompassed within this District, as it presently exists, with the addition thereto of a flood control and flood mitigation structure, it is intended that all requests to rezone any of the area within this District shall be permitted only if such requested change or rezoning preserves and/or protects the integrity and character of said District.

**5.19.02 Permitted Uses:** The following shall be permitted as uses by right:

1. Agricultural uses, excluding the expansion of existing or development of new intensive livestock facility operations exceeding one animal unit per acre.
2. Flood control and flood mitigation projects.
3. Public parks and recreational areas.
4. Community buildings and/or facilities owned and/or occupied by public agencies.
5. Signs in accordance with Section 7.06 – 7.09

**5.19.03 Conditional Uses:** A building or premises may be used for the following purposes in the LWC Lake Wanahoo Conservation District if a Conditional Use Permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Single family farm dwellings
2. Accessory structures

**5.19.04 Minimum Area Requirements**

1. Same as TA - Transitional Agriculture District

**Section 5.20 (HPD) Historic Preservation District (Overlay District)****5.20.01 Intent:**

This Overlay District is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the city's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the city; to promote the use of preservation and historic districts and landmarks for the education, pleasure, and welfare of the people of the city; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property.

Permitted and conditional uses in this district located within the Transportation Corridor Overlay District must adhere to Design Standards.

**5.20.02 Preservation Commission**

A Preservation Commission will have an advisory role to the Planning Commission regarding review of alterations, modifications, new construction, signage, and other issues involving the buildings and historic districts in order to preserve area's character. The Preservation Commission shall consist of five members on three year terms. Provided that of those members first taking office, one shall be appointed for one year, two for two years, and two for three years. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term.

There is hereby created the preservation commission (hereinafter, the "Preservation Commission". The Preservation Commission shall consist of five members appointed by the Mayor with confirmation by a majority of the City Council.

The Preservation Commission might be made up of the following individuals; One member of the City Council or Planning Commission, one historian qualified in the field of American History, one member from the local or county Historical Society, one local real estate agent, and one citizen-at-large.

**5.20.03 Organization.**

The Preservation Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this section, which are not inconsistent with the laws of the city and the state. Three members shall constitute a quorum for the transaction of business and three affirmative votes shall be required for final action on any matter acted upon by the Preservation Commission. Members of the Preservation Commission shall serve without compensation. The Preservation Commission shall meet as necessary.

**5.20.04 Powers and Duties.**

The powers and duties of the Preservation Commission shall be as follows:

- a. Initiate and maintain an inventory of all sites, structures, and districts potentially eligible for designation as landmarks or landmark districts.
- b. Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
- c. Inspect and investigate structures, sites, and areas which are believed worthy of preservation;
- d. Disseminate information to the public concerning those structures, sites, and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of landmarks and property of interests;
- e. Solicit gifts and contributions to be made to the city and assist in the preparation of applications for grant funds to be made to the city for the purpose of preservation;
- f. For every building or district designated for preservation, maintain a guideline for preservation of the property;

- g. Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;
- h. Prepare and deliver an annual report of the Preservation Commission’s past actions and future goals to the City Council;

5.20.05. *Requirement of Certificate for Certain Work.*

No person shall carry out or cause to be carried out on a landmark or in a preservation district any change in the appearance of a landmark or historic district for which a building permit or demolition permit is required, as specified in the Wahoo Building Code for the city, or any change restricted by the particular designating ordinance without a certificate issued by the Preservation Commission or the Planning Commission as described below. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the designated ordinance may be carried out without a certificate issued by the Preservation Commission.

5.20.06 *Procedure for Certificate.*

The application for such certificate shall be filed with the City of Wahoo and shall be accompanied by plans for the proposed work to be done and such other information as the Building Inspector shall require. The Building Inspector shall review the application and plans for compliance with the existing building code ordinances and regulations. The application and plans shall be referred to the Planning Commission.

The Planning Commission may issue a certificate of “no material effect” if the application is for work which is not restricted by the designating ordinance and if the work contemplated in the application will have no effect on any architectural features of the landmark or landmark district as detailed in the particular designating ordinance and will be in harmony therewith.

Other applications shall be transmitted by the Planning Commission to the Preservation Commission along with any recommendations by the Building Inspector and the Planning Commission. Within sixty days of receipt of the application by the Building Inspector, the Preservation Commission shall hold a public hearing on the applications received by the Preservation Commission. Notice of the time, place, and purpose of such hearing shall be published by the City of Wahoo in a newspaper having a general circulation in the City of Wahoo and shall be mailed to the certificate applicant not less than eight days prior to the date of hearing. The Preservation Commission may also give such other notice as may be deemed necessary, including posting of the property affected.

During the public hearing, the Preservation Commission shall review the application and plans in light of the guideline for preservation, see Section 7.19 for review guidelines (Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings), of the property contained in the particular preservation designation ordinance for that landmark or historic district.

5.20.07 *Certificate Approval or Denial.*

Within thirty days of the hearing, the Preservation Commission shall approve or deny the application for the certificate for certain work on the landmark or in a preservation district.

The Preservation Commission:

- 1. May issue a certificate of “appropriateness” if, after focusing upon aesthetic, historical, and architectural values, it finds that the proposed work would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark or preservation district;
- 2. May issue a certificate of “exception on the ground of insufficient return or hardship” if it finds that the landmark or property within the preservation district cannot yield a reasonable return if the proposed work is not permitted, that the plight of the applicant is due to unique circumstances, and that the hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant; or
- (c.) May refuse to issue a certificate, if it finds that the application does not meet any of the above criteria.

The Preservation Commission’s decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit after issuance of a certificate by the Preservation Commission or the Planning Commission without resubmittal to the Preservation Commission or the Planning Commission and approval in the same manner as provided above.

**5.20.08 Procedure Following Certificate Denial**

If no certificate is issued, the applicant and the Preservation Commission shall enter into negotiations to develop a plan whereby modifications in the application would enable the Preservation Commission to issue a certificate under the criteria listed above and compatible with the guideline for preservation in the particular designation ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a preservation district or involves construction upon open areas of a landmark or with a preservation district and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the city may proceed by eminent domain proceedings to acquire the landmark or the affected property within the preservation district. But if the city does not initiate proceedings within ninety days, the Planning Commission shall issue a certificate of "allowance", permitting the applicant to proceed with the work as proposed in the application. If the proposed work on a landmark or in a preservation district is other than the above and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the Planning Commission shall issue a certificate of "allowance", permitting the applicant to proceed with the work as proposed in the application.

**5.20.09 Hazardous Structures.**

The Planning Commission shall issue a certificate of "allowance on the ground of hazardous conditions" for razing a structure or other work if the Building Inspector has determined that the landmark or structure within the preservation district poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a landmark or property within a preservation district to become hazardous to human health and safety with the intent of then obtaining such permit.

**5.20.10 Appeal.**

Any person aggrieved by any order, approval, disapproval, or other decision issued by the Preservation Commission, or the Planning Commission, may appeal such order, approval, disapproval, or other decision to the City Council by filing a written appeal with the City Clerk within thirty days of such order. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter.

The City Clerk shall refer the appeal to the City Council, which shall fix within thirty days a reasonable time for the hearing. Notice of time, place, and purpose of such hearing shall be published in a newspaper having a general circulation in the City of Wahoo by the City Clerk and shall be mailed by certified or registered mail to the appealing party not less than eight days prior to the date of hearing. The City Council shall review the appeal and may in conformance with the provisions of this title reverse or affirm, wholly or partially, or may modify the order, approval, disapproval or other decision appealed from. In making a determination, the Council may request information and recommendations from any department of the City of Wahoo. Every decision by the City Council shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the appeal.

**Section 5.21 (TC) TRANSPORTATION CORRIDOR DISTRICT (OVERLAY DISTRICT)**

5.21.01 *Intent:*

The City of Wahoo has established Design Standards, basic site and building development criteria to be implemented within the boundaries of this overlay district. The Transportation Corridor District has been established in order to provide for quality development along the new U.S. Highway 77 corridor. These criteria include, but are not limited to the following: landscaping, building material selection, lighting, and interior street development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridor and entrance to the City of Wahoo. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City, by providing quality design and construction which will also aid in the protection of past and future investment in the corridor.

5.21.02 *Purpose:*

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Wahoo’s environment. Pertinent to appearance is the design of the site, building and structures, planting, signs, street hardware, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the city, preserve taxable values, and promote the public health, safety and welfare.

5.21.03 *Geographic Area:*

The Transportation Corridor Overlay District includes the following geographic areas:

1. An area which extends generally one-quarter of a mile either side of the Highway 77 Expressway alignment, more or less, within the prescribed jurisdiction of Wahoo;
2. An area including properties adjacent to First Street, from the Highway 92 intersection with the Highway 77 Expressway, extending east to Chestnut Street;
3. An area including properties adjacent to Chestnut Street from 12<sup>th</sup> Street north to the Highway 77 Expressway right-of-way;
4. An area including properties adjacent to Chestnut Street from 12<sup>th</sup> Street south to the railroad tracks south of A Street;
5. An area including properties adjacent to 15<sup>th</sup> Street from Chestnut Street west to the Highway 77 Expressway;

as depicted in the Transportation Corridor Design Standards, Section 1.2 Corridor Map, and defined in Section 1.4 Area Standards, as Area A (In Town), Area B (Outskirts), and Area C (Hwy 77).

If a site is partially covered by said overlay district, then the entire portion of the site facing the Transportation Corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

5.21.04 *Criteria for Application:*

1. All developments within the Transportation Corridor Overlay shall adhere to the Design Standards.
2. All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar shall be required to meet the zoning requirements for a Residential/Mixed Use District (RMD). The RMD process and rezoning shall be in conjunction with Preliminary and Final Plat review and approval.
3. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.

5.21.05 *Criteria for Appearance*

1. The Design Standards shall be used to evaluate project design elements including: relationship of building to site, building architecture, parking, site lighting, landscaping, signs, and outdoor element.



5.21.06 *Process*

1. **Residential Mixed Use Residential Application**  
All developments within the Transportation Corridor District shall be required to apply for rezoning under the criteria in this Ordinance.
2. **Subdivision Approval**  
All Commercial Building projects within the city of Wahoo need to receive Subdivision approval. As a condition of its subdivision approval, all commercial building projects within the required geographic region will have to comply with the Transportation Corridor District regulations. The Developer shall place maintenance provisions required by this Section within all restrictive covenants
3. **Pre-application Conference:**  
A pre-application conference with city staff is recommended to give the applicant an opportunity to discuss plans before a great deal of time or money is expended.
4. **Application for Design Review:**  
The applicant needs to fill out the "Application for Certificate of Approval" and submit it along with the required submittals. See Administrative Forms for a listing of required submittals.
5. **Design Review:**  
The City of Wahoo Zoning Administrator will review each site plan and score the design in accordance with the Design Standards Section 1.5 Design Evaluation Calculator.
6. **Certificate of Approval:**  
Upon a successful review the City of Wahoo will issue to the applicant a Certificate of Approval. A copy of this will need to be included with the Building Permit documents in order to receive a Building Permit.
7. **Appeals:**  
In the event where the Applicant, City staff and City design review architect cannot come to an agreement the applicant may appeal the decision by requesting an amendment to the Subdivision Agreement from the Wahoo City Council.
8. **Certificate of Occupancy Permit:**  
After the building permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.
9. **Maintenance of Design requirements:**  
The Applicant needs to maintain the Design Requirements for the life of the project. In the event that they fail to do so the City may revoke the Occupancy Permit.
10. **Fees:**  
Fees may apply to each individual step as established in the Master Fee Schedule.

**Section 5.22 RESIDENTIAL ACREAGE OVERLAY DISTRICT (RAO)****5.22.01 Intent:**

The intent of the Residential Acreage Overlay District is to provide within this Overlay District a procedure for the implementation of infrastructure maintenance and improvements to those areas within the District which were previously developed for residential purposes outside of the corporate limits of the City of Wahoo pursuant to infrastructure standards of the City of Wahoo less stringent than for areas within the corporate limits of the City of Wahoo and for which now said areas, through annexation, are to be incorporated into the corporate limits of the City of Wahoo. This Overlay District includes residential lots greater than one-half (1/2) acre in area, but less than three (3) acres in area, except for one (1) commercial area, and which are currently zoned for residential uses, except for the one (1) commercial tract which is zoned for commercial uses. This Overlay District shall not change the current or future zoning of the areas included in this Overlay District.

**5.22.02 Purpose:**

The purpose of this Overlay District is to provide a procedure for the orderly incorporation, through annexation, of areas into the corporate limits of the City of Wahoo and the maintenance and development of City of Wahoo infrastructure within said areas.

**5.22.03 Geographic Area:**

The Residential Acreage Overlay District shall include the following areas, to wit:

1. Janecek's Area; (Lots 1 through 5, Janecek Subdivision Replat, Saunders County, NE)
2. County Club Area; (Lots 1 through 21 and Lots 23 through 31, Country Club Acres, Saunders County, NE)
3. Cook's Area; (Lots 1 through 6, Cook's Subdivision in Section 16-14-7, Saunders County, NE, and a one (1) acre Parcel located adjacent to the East end of Cook's Subdivision [Little], Saunders County, NE)
4. Arbor Lodge Area; (Lots 1 through 7, Arbor Lodge Estates, Saunders County, NE)
5. East Continental Area; (Lots 1 through 6, East Continental Estates, Saunders County, NE)
6. West Continental Area; (Lots 1 through 19, West Continental Estates, Saunders County, NE, and a tract of land located West of West Continental Estates and East of County Road 17 [Bass], Saunders County, NE)
7. City View Area; Lots 1 through 21, City View Acres Subdivision, Saunders County, NE, and a four (4) acre Parcel located directory East of County Road 17 and directly South of West Continental Estates [Green Acres], Saunders County, NE)

For the outer boundaries of each Area, see Exhibit "A" attached hereto and incorporated herein by reference. Also, each lot and the Little, Bass, and Green Acres acreages shall hereinafter be referred to as lot or lots.

**5.22.04 Existing infrastructure within each Area of the Residential Acreage Overlay District.**

1. Streets/Street Signage/Street Lighting:
  - a. Except as noted, the streets in all of the aforementioned Areas are "Local Streets" which meet all of the minimum requirements as set forth the Subdivision Regulations of the City of Wahoo, except "Pavement". The exception is County Road J adjacent to the West Continental, East Continental, and a portion of the Arbor Lodge Areas, which is a "Collector Street" as set forth in the Subdivision Regulations of the City of Wahoo

and meets the minimum requirements of the Subdivision Regulations of the City of Wahoo pertaining to streets.

- b. Street maintenance for each area, except for County Road J, is provided by either Stocking Township, Saunders, and/or private contractors.
- c. Currently, no street signage and/or street lighting is provided to any of the areas by the City of Wahoo, except street signage is provided by the City of Wahoo along County Road J.

2. Sanitary Sewer:

- a. Each developed lot in each of the aforementioned Areas is serviced by a private septic system, except for the following lot, to wit:

Lot 3, West Continental Estates,

which is served by the City of Wahoo Sewer Department.

- b. The following lots are undeveloped, not having thereon any sewage system, to wit:

1) Information unavailable at time of printing;

3. Potable Water:

- a. Each developed lot in each of the aforementioned Areas is serviced by a private domestic water well, except for the following lot, to wit:

Lot 3, West Continental Estates,

which is serviced by the City of Wahoo Water Department.

- b. The following lots are undeveloped, not having thereon any potable water system, to wit:

1) Information unavailable;

4. Non-potable Water:

- a. In addition to the aforementioned domestic water wells, the following lots utilize a well-to-well ground source heat pump system, to wit:

(1) Information unavailable;

- b. In addition to the aforementioned domestic water wells, the following lots utilize a closed-loop ground source heat pump system, to wit:

(1) Information unavailable;

5. Electrical Service:

All of the aforementioned Areas are serviced by the City of Wahoo Electric Department.

6. Natural Gas and Propane:

The City of Wahoo Natural Gas Department has laid gas mains in portions of the Areas. Residences in the Areas utilize as a heating source either natural gas from the City of Wahoo, propane, electricity from the City of Wahoo, or ground to ground or closed loop heating systems, or combinations thereof.

7. Storm Sewers, Storm Water Drainage:

All Areas use open street ditches for storm water drainage purposes.

5.22.05 *Existing Governmental Services within Residential Acreage Overlay District:*

1. Fire Protection:

All Areas in the Overlay District are furnished fire protection by Wahoo Rural Fire District No. 13.

2. Police Protection:

All Areas in the Overlay District are furnished police protection by the Saunders County Sheriff's Department and the Nebraska State Patrol. In addition thereto, the City of Wahoo Police Department does have jurisdiction in each Area.

5.22.06 *Infrastructure maintenance within the Residential Acreage Overlay District after annexation:*

1. Streets, Street Signs, Street Lighting and Sidewalks.

a. The City of Wahoo shall maintain the existing streets in the annexed Areas as follows:

- 1) For gravel/rock streets, the City of Wahoo shall continue to maintain the streets with gravel and rock;
- 2) For streets which are surfaced with armor coating, the City of Wahoo shall maintain the armor coating surfacing with patching.

b. The City of Wahoo shall provide all snow removal on publicly dedicated streets.

c. The City of Wahoo shall erect and maintain all street locator signs, shall determine the best location of traffic control signs, and shall have the authority to regulate and enforce all traffic laws as set forth in the Nebraska Rules of the Road in all of the annexed Areas.

d. The City of Wahoo shall prepare a plan within one (1) year of the completion of annexation of the Areas regarding installation of street lighting in the annexed Areas. Costs of street lighting installation shall be paid by the City of Wahoo. Street lighting, when installed by the City of Wahoo, shall be for public safety purposes.

e. Sidewalks shall not be required by the City of Wahoo in any of the Areas except if requested by majority of the lot owners in a portion of an Area.

2. Sanitary Sewer:
  - a. The City of Wahoo shall prepare detailed plans and specifications, to include one (1) or more lift stations, if necessary, within one (1) year of the completion of annexation of the Areas to extend the City of Wahoo's sanitary sewer mains to provide sanitary sewer service to each lot in each of the Areas.
  - b. The City of Wahoo shall not assume nor shall it be responsible for the maintenance of any existing private septic system in the Areas. Each lot owner in the Areas shall be responsible for each lot's private septic system being in compliance with all applicable rules or regulations of the Nebraska Department of Environmental Quality as they now exist, and as they may be amended from time to time hereafter.
  - c. If a Building Permit for the construction of a residence is issued by the City of Wahoo for any undeveloped lot in any of the Areas, a private septic system may be installed only if permitted by the Board of Public Works of the City of Wahoo.
3. Water, Potable and Non-Potable:
  - a. The City of Wahoo shall prepare detailed plans and specifications within one (1) year of the completion of annexation of the Areas to extend the City of Wahoo's water system to provide domestic water service to each lot in each of the Areas.
  - b. The City of Wahoo shall not assume nor shall it be responsible for the maintenance of any present domestic water well in the Areas. Each lot owner in the Areas shall be responsible for each Lot's domestic water well being in compliance with all applicable rules and regulations of the Nebraska Department of Health and Human Services, as they now exist, and as they may be amended from time to time hereafter.
  - c. If a Building Permit for the construction of a residence is issued by the City of Wahoo for an undeveloped lot in any of the Areas, a domestic potable water well may be installed only if permitted by the Board of Public Works of the City of Wahoo.
  - d. Any existing water wells which are being used for a well-to-well ground source heat pump system will be allowed to remain in service until said system is not permitted by the State of Nebraska, said water to be used for non-potable purposes only.
  - e. In the event the lot owner owns 0.5 acres or more, and if upon said lot there exists a closed-loop ground source heat pump system, it will be allowed to remain and be maintained in accordance with the City of Wahoo's Building Regulations and/or the rules and regulations of the Nebraska Department of Health and Human Services, as they now exist, and as they may be amended from time to time hereafter, said water to be used for non-potable purposes only.
4. Storm Water Drainage:
  - a. The City of Wahoo shall maintain the existing storm water drainage system that is in place at the time of annexation in the annexed Areas. Maintenance of these channels and ditches will need to be performed from time to time by the City of Wahoo. Currently, lot owners have yards and other landscaping in the drainage channels and ditches. The City of Wahoo shall work with lot owners individually to determine how the yards and landscaping will be handled at the time of the maintenance of the channels and ditches by the City of Wahoo.

5. Electricity:
  - a. The City of Wahoo Electric Department will continue to provide electrical service to all areas after annexation.
  
6. Natural Gas and Propane:
  - a. The City of Wahoo shall prepare plans and specifications within one (1) year of the completion of annexation of the Areas to extend the City of Wahoo’s natural gas mains to provide natural gas service to each lot in the annexed Areas.
  - b. The costs of the installation of the natural gas mains shall be paid by the City of Wahoo.
  - a. Propane fueled heating systems in service at the time of annexation may continue to be used by the lot owners until the heating system fails and must be replaced. Within one (1) year of the date of failure of the heating system, the lot owner shall be required to remove the propane tank from the lot and replace the heating system with a system that does not use a propane tank or require storage of combustible materials which cause a threat to the health and safety of the citizens of the City of Wahoo.

*5.22.07 Governmental Services After Annexation:*

1. Fire Protection:
  - a. Fire protection to the annexed Areas shall be provided by the Wahoo Volunteer Fire Department.
  
2. Police Protection:
  - a. Police protection shall be provided primarily by the Wahoo Police Department and secondarily by the Saunders County Sheriff’s Department and the Nebraska State Patrol.

*5.22.08 Infrastructure Development in the Residential Acreage Overlay District After Annexation:*

1. Streets:
  - a. Lot owners may, at any time, submit a petition which has been signed by abutting lot owners representing sixty percent (60%) of the front footage directly abutting the street to be improved requesting the street to be improved. Upon receipt of the petition, the City of Wahoo shall create a Street Improvement District, complete the improvements, and assess the costs to the all abutting lot owners as determined by the City of Wahoo’s Board of Equalization.
  - b. Street lights may be required by the City of Wahoo in any of the Areas after a street has been improved, for public safety purposes.
  - c. Sidewalks will not be required unless requested by the requisite number of petitioners to create a Sidewalk Improvement District pursuant to applicable Statutes of the State of Nebraska.
  
2. Sanitary Sewer:
  - a. The extension of sanitary sewer mains shall be done through one or more Sanitary Sewer Extension Districts (Sewer District) as is authorized and allowed by Nebraska Revised Statutes, §19-2402 through §19-2407 pursuant to an Ordinance of the City of

Wahoo adopted by an affirmative vote of not less than three fourths (3/4ths) of the governing body of the City of Wahoo. The City of Wahoo thereafter shall complete the improvements and assess the costs to all of the abutting lot owners as determined by the City of Wahoo's Board of Equalization.

- b. Costs associated with the over-sizing of any portion of the sanitary sewer mains in the Sewer District shall be determined to be costs which benefit the entire sanitary sewer system and shall be paid by the City of Wahoo and not assessed to the lot owners within each Sewer District.
- c.
  - (1) When the sanitary sewer system is installed and accepted by the City of Wahoo, the City of Wahoo shall waive the mandatory hookup requirement of §53.26 of the Wahoo Board of Public Works Code as to each lot upon which there is an existing sanitary sewer system in place at the time of annexation which is in compliance with the Nebraska Department of Environmental Quality Rules and Regulations. However, the City of Wahoo agrees to waive its service connection fees at the time of connection if the connection is made within one year of the date the City of Wahoo's Board of Equalization determines the assessed costs of the Sewer District to the respective adjoining lots benefited by said Sewer District. Once the lot is connected to the City of Wahoo's sanitary sewer system, the existing sanitary sewer system on said lot must be properly abandoned in compliance with Nebraska Department of Environmental Quality Rules and Regulations. Further, if the existing sanitary sewer system on a lot fails, failure to mean, but shall not be limited to, either failure of the leaching field or failure of the septic tank, the sanitary sewer system must then be properly abandoned pursuant to Nebraska Department of Environmental Quality Rules and Regulations and the lot must be connected to the City of Wahoo's Sanitary Sewer system pursuant to §53.26 of the Wahoo Board of Public Works Code.
  - (2) If at any time the City of Wahoo is made aware or knows that an existing sanitary sewer system has failed and been replaced with a like system, or that an unsanitary sewer system is in use, the City of Wahoo shall provide notice to the lot owner of mandatory connection, and shall, after providing the statutorily required notice, connect the lot to the City of Wahoo's sanitary sewer system and shall assess the costs of said connection to the lot owner pursuant to §53.26 of the Wahoo Board of Public Works Code.
  - (2) The City of Wahoo reserves the right to, at any time, in order to preserve the health and safety of the City of Wahoo and surrounding lots, require connection to the City of Wahoo's sanitary sewer system pursuant to §53.26 of the Wahoo Board of Public Works Code. This would be a decision by the City of Wahoo supported by either State mandates or evidence that unsanitary and unsafe conditions exist pursuant to Nebraska Department of Environmental Quality rules and regulations.

3. Water, Potable and Non-Potable:

- a. The extension of water mains shall be done through one or more Water Main Extension Districts (Water District) as is authorized and allowed by Nebraska Revised Statutes, §19-2402 through §19-2407 pursuant to an Ordinance of the City of Wahoo adopted by an affirmative vote of not less than three fourths (3/4ths) of the governing body of the City of Wahoo. The City of Wahoo shall thereafter complete the improvements and assess the costs to all of the abutting lot owners as determined by the City of Wahoo's Board of Equalization.

- 
- b. Costs associated with the over-sizing of any portion of the water mains in the Water District shall be determined to be costs which benefit the entire water system and shall be paid by the City of Wahoo and not assessed to the lot owners within each Water District.
  - c.
    - (1) When the water main system is installed and accepted by the City of Wahoo, the City of Wahoo shall waive the mandatory hookup requirement as to each lot upon which there is an existing water system in place at the time of annexation. However, the City of Wahoo agrees to waive its service connection fees at the time of connection if the connection is made within one year of the date the City of Wahoo's Board of Equalization determines the assessed costs of the Water District to the respective adjoining lots benefited by said Water District.
    - (2) Once the water main system is installed and accepted by the City of Wahoo, the existing water well on the lot now serviced may continue to be used by the lot owner for potable and non-potable purposes for so long as said well meets State of Nebraska requirements for potable water.
    - (3) The City of Wahoo reserves the right to, at any time, in order to preserve the health and safety of the City of Wahoo and surrounding lots, require connection to the City of Wahoo's water main system. This would be a decision by the City of Wahoo supported by either State mandates or evidence that unsanitary and unsafe conditions exist.
  - 4. Storm Water Drainage:
    - a. Storm water drainage improvements may be made at the time a Street Improvement District is created, pursuant to subparagraph 1 hereof, and the costs thereof shall be paid either by the City of Wahoo or the abutting lot owners, or a combination thereof, as determined by the City of Wahoo's Board of Equalization.
  - 5. That the Official Zoning Map of the City of Wahoo, Nebraska, be amended with the inclusion of the Residential Acreage Overlay District, as to the following-described real estate, to wit:

COUNTRY CLUB ACRES

WEST CONTINENTAL ESTATES

EAST CONTINENTAL ESTATES

ARBOR LODGE ACRES

COOK'S ADDITION

JANECEK SUBDIVISION AND ALL REPLATS

CITY VIEW ACRES



**Section 5.23** (this section intentionally left blank)**Section 5.24 AHO AIRPORT HAZARD OVERLAY DISTRICT***(Ordinance No. 2170, 12-23-2014)***5.24.01 INTENT**

This district is established as an overlay district for application over any primary zoning district in order to protect the safe use, public investment, and utility of public airports and their Airport Hazard Area, within the city of Wahoo, NE and its extraterritorial zoning jurisdiction, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are licensed by the Nebraska Department of Aeronautics, as designated on the Airport Zoning Map prepared by the Nebraska Department of Aeronautics for the Wahoo Municipal Airport (Dwg. No. ZN-AHQ-09 dated December 18, 2013)

**5.24.02 DESIGNATED PUBLIC AIRPORT**

The designated public airport for which these regulations have been prepared is the Wahoo Municipal Airport located in Section 26, Township 15 North, Range 7 East of the 6th P.M., in Saunders County which is within the planning and zoning jurisdictional area of Wahoo, Nebraska. Information on the Wahoo Municipal Airport can be obtained from the Nebraska Department of Aeronautics at [www.aero.nebraska.gov](http://www.aero.nebraska.gov) or at [www.airnav.com/airports/](http://www.airnav.com/airports/).

**5.24.03 DEFINITIONS**

For purposes of the Airport Hazard Overlay, the following terms are defined:

Airport means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.

Airport Hazard means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; or penetrates any approach, operation, transition, or turning zone.

Airport Hazard Area means any area of land or water upon which an airport hazard might be established if not prevented as provided in the Nebraska Airport Zoning Act, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.

Airport Layout Plan means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

Approach Zone means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

Electric Facility means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Section 70-1001.01, R.R.S. 1943, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing Runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Height of Structure means the height of any building, structure or object measured from its highest point to the nearest existing or proposed runway end elevation.

Instrument Runway means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this zoning regulation, an airport shall not designate an existing or proposed runway as an instrument runway if

the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

Operation Zone means a zone that is longitudinally centered on each existing or proposed runway.

Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

Political Subdivision means any city, village, or county.

Proposed Runway means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Transition Zone means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one (1) foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.

Tree means any object of natural growth.

Turning Zone shall comprise all portions of the hazard area not contained in the Operation Zones, Approach Zones and in the Transitional Zones.

Turning Zone's Outer Limit means the area located at a distance of three (3) miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.

Visual Runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

#### 5.24.04 HAZARD AREA DESCRIPTION

In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed runways or landing strips.

#### 5.24.05 ZONE DESCRIPTIONS AND REGULATIONS

The following are intended for use with this overlay district.

1. **Operation Zones** are longitudinally centered on each existing or proposed runway:

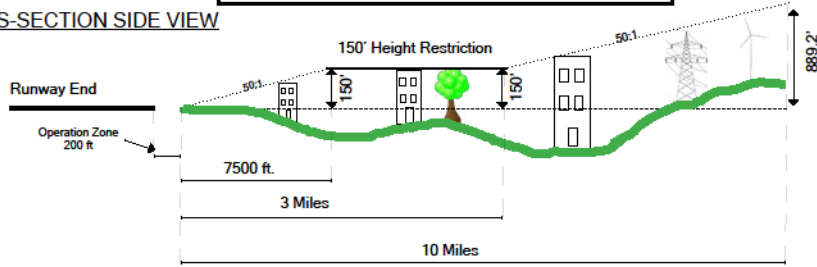
- a. Length. For existing and proposed paved runways, the operation zone extends two hundred (200) feet beyond the ends of each runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends;
  - b. Width. For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline; and
  - c. Height. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.
2. **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. The dimensions of the zones are as follows:
    - a. For an existing or proposed instrument runway:
      - (1) Length and Width. An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the zone nearest the runway and expands uniformly to 16,840 feet wide at the farthest end of the zone; and
      - (2) Height Limit. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 50 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the ten-mile limit.
    - b. For an existing or proposed visual runway:
      - (1) Length and Width. An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide; and
      - (2) Height. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 40 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end.
  3. **Transition Zones** extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.
  4. **Turning Zones** extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

#### 5.24.06 HEIGHT RESTRICTIONS

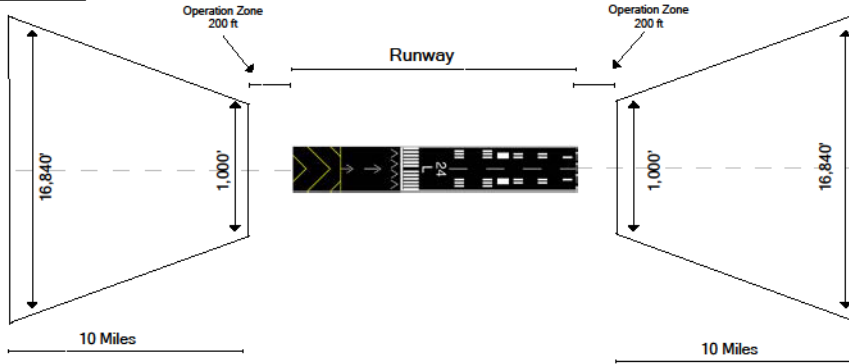
No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 5.24.05 above:

**INSTRUMENT APPROACH RUNWAY**

CROSS-SECTION SIDE VIEW

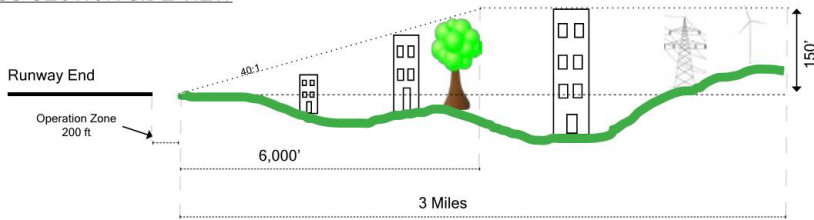


TOP VIEW

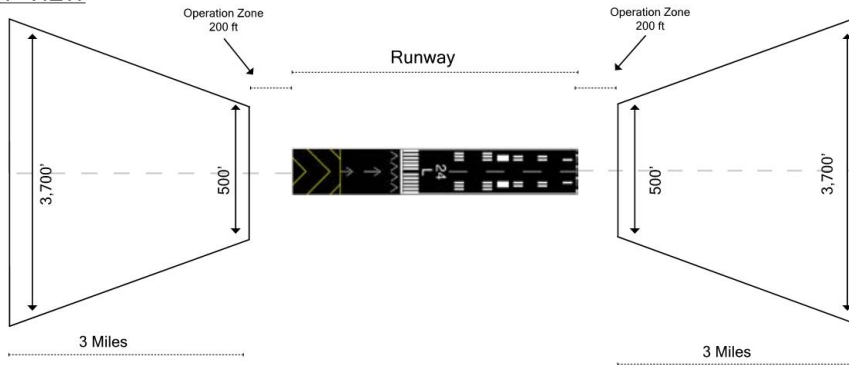


**VISUAL APPROACH RUNWAY**

CROSS-SECTION SIDE VIEW



TOP VIEW



5.24.07 LOCATION SKETCH AND ZONING MAP

The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Wahoo Municipal Airport are as indicated on the maps identified in Section 5.24.01, which accompany and are hereby made a part of these regulations, copies of which shall at all times be on file in the office of the City Clerk of Wahoo, Nebraska.

*5.24.08 PERMIT REQUIRED, EXCEPTIONS, APPLICATION FORMS AND PERMIT FEES*

1. Permit Required:

It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the boundary of the zoned airport hazard area of the Wahoo Municipal Airport without first obtaining a zoning permit from the City Zoning Administrator and review of the Wahoo Airport Authority.

2. Exceptions:

In the outer area of Approach Zones and within Turning Zones, no such permit shall be required for construction of planting which is no higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip, except for any permits required by other sections of these Regulations.

3. Application Forms:

Application for a zoning permit as required under these regulations shall be made upon a form or forms to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting (Mean Sea Level Elevation).

4. Permit Fees:

The fee for each zoning permit shall be the normal fee charged by the City plus any other additional fees determined by the City and/or the Wahoo Airport Authority.

*5.24.09 NON-CONFORMING USES AND STRUCTURES*

1. Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations were adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the airport hazard zone.
2. Except as provided in subsection (3) of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the

height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

#### 5.24.10 MARKING OF NON-CONFORMING STRUCTURES

Whenever the Zoning Administrator shall determine, or shall be notified by the Nebraska Department of Aeronautics or the Wahoo Airport Authority, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Zoning Administrator as is based on recommendations of the Nebraska Department of Aeronautics and/or Wahoo Airport Authority. The cost of such marking shall not be assessed against the owner or lesser of said premise.

#### 5.24.11 ADMINISTRATIVE AGENCY

The Zoning Administrator of Wahoo, Nebraska shall administer and enforce these regulations, and Wahoo Airport Authority shall be the administrative agency provided for in Neb. Rev. Stat. Section 3-319 (Reissued 2007), and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the City.

#### 5.24.12 VARIANCE FROM REGULATIONS

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in subsection section 19-907 through 19-912.01, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.
2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

#### 5.24.13 BOARD OF ZONING ADJUSTMENT

The Board of Adjustment of Wahoo, Nebraska shall be the Board of Zoning Adjustment with respect to these regulations, to have and to exercise the powers conferred by Neb. Rev. Stat. Section 3-320, et. Seq. (Reissued 2007), and duties as are conferred and imposed by law.

#### 5.24.14 CONFLICTS

In the event of any conflict between these airport hazard regulations and any other regulations established by these or other regulations, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.

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**Section 5.25. FRD Floodwater Retarding Dam Breach Overlay District**
**5.25.01 Intent:**

The intent of this district is to protect certain areas of Wahoo below Floodwater Retarding Dams (hereinafter referred to as FRD) that may be subject to substantial flooding should an FRD breach (dam failure) occur or that would increase the Dam Hazard Classification. This could result in significant losses due to:

1. The cumulative effect of obstructions in the FRD breach impact area district causing increases in flood heights and velocities; and
2. The occupancy of the FRD breach impact area district by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damage.

The FRD breach impact area district is designed to permit the gainful use of certain lands which are considered to be in the path of potential flood waters and from which structures and other valuable property use that is subject to damage by flood water should be regulated. This would permit surface runoff through such areas in the event of an FRD breach with a minimum of structural damage or property loss, and a minimum of obligation upon governmental authorities for flood or disaster assistance.

As such, this Article is intended to promote the public health, safety, and general welfare, and minimize these losses by applying the provisions of this article to the designated areas within Wahoo. And by taking action to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in the FRD breach impact area, or which might cause undue increase in flood heights; and
2. Protect individuals from buying lands for the purpose of building in the FRD breach impact area which is unsuited for intended purposes because of flood hazard.

**5.25.02 Findings of Fact:**

1. The FRD breach impact area district of Wahoo, Nebraska, is subject to inundation which, in the event of a FRD breach, could result in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.
2. Such flood losses are caused by:
  - a. The cumulative effect of obstructions in FRD breach impact areas causing increases in flood heights and velocities.
  - b. The occupancy of FRD breach impact areas by uses vulnerable to floods or hazardous to others, and which are inadequately elevated or otherwise protected from flood damages.
3. This article uses a reasonable method of analyzing FRD breach impact flood hazards which consists of a series of interrelated steps, as follows:
  - a. The use of engineering calculations and breach impact studies which indicate the area and potential depth of inundation for each FRD.
  - b. Delineation of breach impact area encroachment lines within which no habitable structure is permitted which could cause any increase in flood height

**5.25.03 General Provisions**

1. Land to which Regulations Apply. This article shall apply to all lands within the incorporated portion of Wahoo, Nebraska, and its Extra Territorial Jurisdiction (ETJ) identified on the FRD Maps as elaborated by the official Professional Engineering Breach Impact Studies. No new development of habitable structures shall be permitted in any defined FRD breach impact area except as authorized herein.
2. The Enforcement Officer: The Zoning Administrator of Wahoo, Nebraska or their designee is designated as the enforcement officer.
3. Rules for Interpretation of District Boundaries: The boundaries of the FRD breach impact area district shall be determined by scaling distances on the engineering Breach Impact Studies.

The Zoning Administrator shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute.

4. Existing Development: No development of habitable structures presently located within a known FRD breach impact area shall be relocated, extended, converted, or structurally altered without a permit with the exception that a structure may be relocated to an approved site out of an FRD breach impact area.
5. Abrogation and Greater Restrictions: It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
6. Interpretation: In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing body and Wahoo.
7. Warning and Disclaimer of Liability: The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. In the event of an FRD breach, larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. This Article does not imply that areas outside boundaries of the FRD breach impact area or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Wahoo or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. Appeal: Where a request for a permit to develop, build, locate, extend, convert or structurally alter any structure or building is denied by the Zoning Administrator, the applicant may appeal such decision and apply for relief to the Board of Zoning Appeals in the method provided in these Regulations for appeals.

#### 5.25.04 Permitted Uses

Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodwater Retarding Dam Breach Impact Overlay District to the extent they are not prohibited by any other provision of these Regulations, and provided they do not require structures or storage of materials or equipment. Subject to the requirements of these Regulations, the following uses are permitted:

- a. Agricultural uses.
- b. Residential accessory uses such as lawns, gardens, parking, play areas, and yard areas that do not have a habitable structure.
- c. Nonresidential uses such as loading areas, parking, landing strips, and
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, and wildlife and nature preserve.
- e. Residential structures with a finished floor elevation certified to exceed a minimum of one-foot above the Wahoo Creek Dam Breach Inundation elevation.
- f. Or other uses that will not affect the Dam Hazard Classification and are in conformance with the underlying zoning district.



## ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 *General Provisions.*

The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the applicant to commence the activity as provided in the conditional use permit.

Section 6.02 *Application for Conditional Use Permits.*

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 *Public Hearing.*

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Wahoo, one time at least 10 days prior to such hearing, as well as any additional notice requirements as prescribed by the Revised State Statutes of Nebraska.

Section 6.04 *Decisions.*

All decisions by the City Council and the recommendations of the Planning Commission shall be required to provide findings of fact for their decision for either approval or denial. A majority vote of the Council shall be necessary to grant a conditional use permit.

The applicant shall have twelve months from the date of approval of the conditional use permit to commence the use, unless the Council specifically grants a longer period of time upon the recommendation of the Planning Commission. If the use stated within the Conditional Use Permit has not commenced within twelve months, or the approved time period if otherwise specified, said permit shall become invalid.

Section 6.05 *Standards.*

No conditional use permit shall be granted unless the Planning Commission or City Council has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

- 6.05.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled as defined and enforced per City Ordinance 1766.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.05.08 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- 6.05.12 Conditional Uses shall adhere to Design Standards when located within the Transportation Corridor Overlay district.

**ARTICLE 7: SUPPLEMENTAL REGULATIONS****Section 7.01 Off-Street Automobile Storage and Stacking**

- 7.01.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.
- 7.01.02 If vehicle storage space or standing space required in section 7.02 cannot be reasonably provided on the same lot on which the principal use is conducted, the City Council, upon application and approval through a Conditional Use Permit, may permit such space to be provided on other off-street property, provided such space lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.  
No parking is to be allowed within the city right-of-way to meet parking requirements unless application is made and approved through Conditional Use, with percent of required spaces allowed within right-of-way determined by the Council.
- 7.01.03 All parking spaces for Single-family, Rooming houses, convalescent homes, Apartments, Townhouses, and two or more unit multi-family dwellings, and Mobile Homes may be required to be paved with asphalt or concrete or other suitable surface.
- 7.01.04 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.01.05 In Districts LLR, R-1, R-2, R-3, RM and NRC, required off-street parking shall be provided on the same lot on which the use is located. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot provided the lot on which the use requiring them is located is not separated by more than 300 feet at closest points, measured along a street or streets.
- 7.01.06 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 7.01.07 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require a tabulation for classrooms and assembly areas)
- 7.01.08 The required off-street parking requirements shall not apply in the C-1 Downtown Commercial District only when on-street parking spaces within the right-of-way are provided and maintained by the City of Wahoo adjacent to the principal use and adjoining properties for use by the public. If such parking is not available, parking requirements must be met as required in 7.01.05, unless otherwise approved by Conditional Use Permit as stated in 7.01.092.
- 7.01.09 Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances as provided below:

<b>TYPES OF OPERATION</b>	<b>MINIMUM STACKING SPACE</b>
Financial Institution – Electronic Teller	Two vehicles per lane*
Financial Institution – Personal Teller	Three vehicles per window or kiosk*
Car Wash – Self Service	Two vehicles per bay at entrance*
	One vehicle per bay at exit
Car Wash – Automatic / Conveyor	200 feet per bay at entrance*
	One vehicle per bay at exit
Drive-through Restaurant	Four vehicles per window*
Coffee Kiosk	
- Drive side service	Four vehicles per lane*
- Passenger side service	Two vehicles per lane*
Drive-through Pharmacy	Two vehicles per lane*
Service Stations	
- Service Islands	Two vehicles per pump lane*
- Service bay	One vehicle per bay*
- Quick lube / Oil change “starting gate design”	Two vehicles per bay*
- (4 or more pump islands side by side, 18 feet apart	One vehicle per lane*
Gated parking lot entrance	One vehicle per gate
Garage Unit or Overhead door (Major streets only)	One vehicle per door
Other uses	Two vehicles per lane being serviced

\* Stacking requirements are in addition to vehicle being served.

Required vehicle stacking shall not block driveways or required parking stalls and shall not be located in side, front, or rear yards where parking stalls are prohibited. Each vehicle stacking unit shall be 22 feet long. Required stacking may be reduced by approval of the City Council following site plan review by the Planning Commission. Site plan review must demonstrate that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during peak hours of operation.

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- 7.01.10 Requirements for types of buildings and uses not specifically listed herein shall be determined by the City Council, after receiving a report and recommendation from the Planning Commission, based upon comparable uses listed.
- 7.01.11 Required parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not more than 300 feet from the building or use they are required to serve, measured in a straight line from the building.
- 7.01.12 Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side yard or rear yard.
- 7.01.13 A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:
1. Delineation of individual parking and loading spaces.
  2. Circulation area necessary to serve spaces.
  3. Access to streets and property to be served.
  4. Curb cuts.
  5. Dimensions, continuity, and substance screening.
  6. Grading, drainage, surfacing and subgrade details.
  7. Delineation of obstacles to parking and circulation in finished parking area.
  8. Specifications as to signs and bumper guards.
  9. Other pertinent details.
- 7.01.14 Design Requirements for parking lots
1. Areas used for standing and maneuvering of vehicles shall be composed of a suitable surface material, to be reviewed and approved by the Planning Commission and City Council.
  2. Said surfacing shall be maintained adequately for all weather use and drained in a manner to avoid the flow of water across sidewalks.
  3. The structural load capacity of the surfacing should be analyzed and designed accordingly. In some instances, thicker or reinforced sections may be desirable.
  4. Artificial lighting, when provided, shall be deflected so the light does not create a shine or glare in any residential district or adjacent residential use.
  5. Access aisles shall be a sufficient width for all vehicles to turn and maneuver.
  6. Except for dwelling units, parking spaces shall be located and served by a driveway that will not require any backing movements or other maneuvering within a street right-of-way other than an alley.
  7. Drainage of 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.
  8. The completion schedule for constructing the parking lot shall be provided to the City as part of the application. The schedule must be reviewed and agreed to by the City prior to construction. Said schedule shall be reasonable for all parties and the completion time shall be followed by the applicant. Variations to the schedule may be granted only in the case of inclement weather delays.
  9. All parking lots within the Transportation Corridor Overlay District are to be surfaced with asphalt and/or concrete and have curbed edging.

**Section 7.02 Schedule of Minimum Off-Street Parking and Loading Requirements**

7.02.01 The following table indicates the formulas necessary to calculate the needed parking spaces for a specific use.

<b>Uses</b>	<b>Parking Requirements</b>	<b>Loading Requirements</b>
<b>Adult entertainment establishments</b>	One space per two persons of licensed capacity	None required
<b>Bowling Alleys</b>	Four spaces per alley plus one per every two employees	One space per establishment
<b>Churches, Synagogues, and Temples</b>	One space per four seats in main worship area	None required
<b>Clubs, including fraternal organizations</b>	One space per 500 s.f. of gross floor area	One space per establishment
<b>College/University</b>	40% of student capacity	Two spaces per structure
<b>Commercial Uses</b>		
<b>Agricultural Sales / Service</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Automotive Rental / Sales</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Automotive Servicing</b>	Three spaces per repair stall	None required
<b>Bars, Taverns, Nightclubs</b>	Parking equal to 30% of licensed capacity	Two spaces per establishment
<b>Body Repair</b>	Four spaces per repair stall	None required
<b>Equipment Rental / Sales</b>	One space per 500 s.f. of gross floor area	One Space
<b>Campground</b>	One space per camping unit	None required
<b>Commercial Recreation</b>	One space per four persons of licensed capacity	One per establishment
<b>Communication Services</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Construction Sales / Service</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Food Sales (limited)</b>	One space per 300 s.f. of gross floor area	One per establishment
<b>Food Sales (general)</b>	One space per 200 s.f. of gross floor area	Two per establishment
<b>General Retail Sales establishments</b>	One space per 200 s.f. of gross floor area	One per establishment
<b>Laundry Services</b>	One space per 200 s.f. of gross floor area	None required
<b>Restaurants w/ drive-thru</b>	One space per 150 s.f. of gross floor area	One per establishment
<b>Restaurants (General)</b>	Parking equal to 30% of licensed capacity	Two spaces per establishment
<b>Convalescent and Nursing Home Services</b>	One space per three beds plus one per employee on the largest shift	Two space per structure
<b>Day Care</b>	One space per employee plus one space or loading stall per each 10 persons of licensed capacity	None required
<b>Educational Uses, Primary facilities</b>	Two spaces per classroom	Two spaces per structure
<b>Educational Uses, Secondary facilities</b>	Eight spaces per classroom plus two spaces per employee on largest shift	Two spaces per structure
<b>Funeral Homes and Chapels</b>	Eight spaces per reposing room	Two spaces per establishment
<b>Group Care Facility</b>	One space per four persons of licensed capacity	Two space per structure
<b>Group Home</b>	One space per four persons of licensed capacity	Two space per structure
<b>Guidance Services</b>	One space per 300 s.f. of gross floor area	None required
<b>Hospitals</b>	One space per two licensed beds	Three spaces per structure
<b>Hotels and Motels</b>	One space per rental unit plus one per employee during the largest shift	One space per establishment
<b>Housing (Congregate)</b>		
<b>Assisted-living facilities</b>	One space per dwelling unit plus one space per employee on the largest shift	One per structure
<b>Duplex</b>	Two spaces per dwelling unit	None required
<b>Multi-family / Apartments</b>	One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
<b>Industrial Uses</b>	One per every employees during the largest shift	Two spaces per establishment
<b>Libraries</b>	One space 500 s.f. of gross floor area	One per structure
<b>Boarding Houses / Bed and Breakfasts</b>	One space per rental units plus one per managing resident	None required
<b>Medical Clinics</b>	Five spaces per staff doctor, dentist, chiropractor	None required
<b>Mobile Home Park</b>	Two per dwelling unit	None required
<b>Offices and Office Buildings</b>	One space per 200 s.f. of gross floor area	None required
<b>Residential (Single-family, attached and detached)</b>	Two spaces per dwelling unit	None required
<b>Roadside stands</b>	Four spaces per establishment	None required
<b>Service Oriented Establishments</b>	One space per 200 s.f. of gross floor area	One per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	One space per four persons of licensed capacity	One space per establishment
<b>Veterinary Establishments</b>	Three spaces per staff doctor	None required
<b>Wholesaling / Distribution Operations</b>	One space for every employee on the largest shift	Two spaces per establishment

2.03.523 Bicycle Parking Requirements:

Each parking facility proving 50 spaces or more shall provide accommodations for bicycles as follows:

50-100 parking stalls	Five bicycle spaces
100 -150 parking stalls	Eight bicycle spaces
150 – 200 parking stalls	10 bicycle spaces
Over 200 parking stalls	Two additional for each 50 parking stalls

**Section 7.03 Off-street Parking: Shared Parking requirements**

Notwithstanding the provisions of Section 7.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the Planning Commission and City Council.

**Section 7.04 Off-Street Parking: Parking for Individuals with Disabilities**

7.04.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

<b>Total Parking Spaces</b>	<b>Required Minimum Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

7.04.02 Except as provided to Section 7.04.02 (1) of this Ordinance, access aisles adjacent to accessible spaces shall be 60 inches (1525 mm) wide minimum.

1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches (2440 mm) wide minimum and shall be designated “van accessible” as required by Section 7.04.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.

Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.

Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2%) in all directions.

2. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.
3. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:
  4. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
  5. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
  6. Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.04.06 of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.04.01, 7.04.02 (1), and 7.04.02 (3) of this Ordinance do not apply to valet parking.
    - a. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
      - i. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
      - ii. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
    - b. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.04.02 (1) shall have an additional sign “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

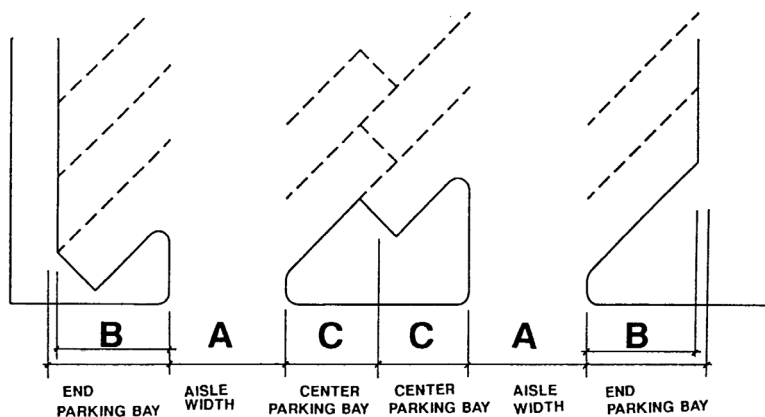
- c. Minimum vertical clearance of 114 inches (2895mm) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02 (1), provide minimum vertical clearance of 98 inches (2490mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- d. Passenger Loading Zones shall provide an access aisle at least 60 inches (1525mm) wide and 20 feet (240inches) (6100mm) long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

**Section 7.05 Off-Street Parking Design Criteria**

7.05.01 Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

**Parking Configuration**

	90-degree	60-degree	45-degree
<b>Aisle Width (A)</b>			
One-way traffic	----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet



7.05.02 Minimum dimensions for a parallel parking space shall be nine feet by 23 feet

7.05.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer

7.05.04 All sites located within the Transportation Corridor Overlay shall comply with Design Standards.

**Section 7.06 Sign Regulations**

7.06.01 Purpose

The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and the city’s ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. These sign regulations are adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the zoning ordinance.

7.06.02 Applicability

A sign may be erected, placed, established, painted, created, or maintained within the city and the city’s extraterritorial zoning jurisdiction only in conformance with the standards, procedures, exemptions and other requirements of these sign regulations.

7.06.03 *Definitions and Interpretation*

Words and phrases used in this ordinance shall have the meanings set forth in Section 2. Principles for computing sign area and sign height are contained in Section 7.06.04.

7.06.04 *Computations*

1. **Computation of Area of Individual Signs**

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 thereof 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 identical to the display itself.

2. **Computation of Area of Multi-faced Signs**

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

3. **Computation of Height**

The height of a sign shall be computed as the distance from the grade at the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be from finished grade. Any berms shall be construed to be a part of the sign base and added to the overall height of the sign.

7.06.05 *Permitted Signs and Limitations*

1. **Sign type, District Permitted**

a. Signs shall be permitted in the various districts according to the following schedule:

Sign Type	Zoning District																
	FW	TA	LLR	R-1	R-2	R-3	NRC	C-1	C-2	C-3	I-1	I-2	LWC	RMD	HO	TC Area C	TC Area A & B
Building Marker	-	+	+	+	+	+	+	+	+	+	+	+	-	+	S	+	****
Identification	-	+	+	+	+	+	+	+	+	+	+	+	-	+	S	+	****
Subdivision Entrance	-	+	+	+	+	+	+	-	+	+	+	+	-	+	-	+	****
Construction	-	+	+	+	+	+	+	+	+	+	+	+	-	+	S	+	****
Informational	-	C	C	C	C	C	C	C	C	C	C	C	-	C	S	C	****
Community or Civic Center Identification	-	C	C	C	C	C	C	C	C	C	C	C	-	C	-	C	****
Temporary	-	+	+	+	+	+	+	+	+	+	+	+	-	+	S	+	****
Incidental	-	+	+	+	+	+	+	+	+	+	+	+	-	+	S	+	****
Real Estate	-	+	+	+	+	+	+	+	+	+	+	+	-	+	+	+	****
Wall	-	+	C	C	C	C	+	+	+	+	+	+	-	C	S	+	****
Canopy	-	+	C	C	C	C	+	+	+	+	+	+	-	C	S	+	****
Window	-	+	C	C	C	C	+	+	+	+	+	+	-	C	S	+	****
Projecting	-	+	C	C	C	C	+	+	+	+	+	+	-	+	S	+	****
Name Plate	C	+	+	+	+	+	+	+	+	+	+	+	-	+	S	+	****
Ground Monument*	-	C	C	C	C	C	+	C**	+	+	+	+	-	C	-	+	****
Billboard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	****
Pole*	-	C*	-	-	-	-	-	-	C*	C*	C*	C*	-	-	-	C***	-

b. +: permitted -: not permitted C: Conditional Use S: Special Review Required

c.

\* See Sec.07.08.07 Off-Premise Signs, for regulations governing off-premise pole and monument signs.

\*\* Breakaway ground monument signs, meeting MUTCD standards for breakaway supports, in C-1 District on lot frontage adjacent to a major arterial route, subject to requirements of conditional use permit.

See Section 7.10 Home Occupations, for regulations on signs related to home occupations.



\*\*\* On-premise pole signs may be permitted through Conditional Use process in Transportation Corridor Overlay District, Area C, along Highway 77 Expressway as outlined in 7.08.08. Off-premise pole signs are prohibited in the Transportation Corridor Overlay District, Area C.

\*\*\*\* See Underlying Zoning District. New Pole signs are not allowed in Transportation Corridor Overlay Districts Area A and Area B.

2. Signs, as designated in 7.06.05 Sec. 8 and subject to requirements for Conditional Use Permit, shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

	Zoning District	FW	TA	LLR	R-1	R-2	R-3	NRC	C-1	C-2	C-3	I-1	I-2	LWC	RMD	HO	TC Area C	TC Area A & B
<b>Sign Type</b>																		
<b>Identification</b>																		
Max. Size (Square Ft.)	-	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	-	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	See underlying zone
Max. Height (Ft.)	-	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	-	NA	NA	NA	See underlying zone
Number Allowed per building	-	1	1	1	1	1	1	1	1	1	1	1	1	-	1	1	1	See underlying zone
<b>Real Estate</b>																		
Max. Size (Square Ft.)	-	32	6	6	6	6	6	32	32	32	32	32	32	-	6	6	6	See underlying zone
Max. Height (Ft.)	-	6	-	-	-	-	-	6	6	6	6	6	6	-	-	-	-	See underlying zone
Number Allowed per lot	-	2	2	2	2	2	2	2	2	2	2	2	2	-	2	2	2	See underlying zone
<b>Subdivision Entrance</b>																		
Max. Size (Square Ft.)	-	32	32	32	32	32	32	-	32	32	32	32	32	-	32	-	32	See underlying zone
Max. Lot Coverage (sq. Ft.)	-	2,500 <sup>4</sup>	2,500	2,500 <sup>4</sup>	2,500	2,500 <sup>4</sup>	2,500 <sup>4</sup>	-	2,500	2,500	2,500 <sup>4</sup>	2,500 <sup>4</sup>	-	-	2,500 <sup>4</sup>	-	2,500 <sup>4</sup>	See underlying zone
Max. Height (Ft.)	-	10	10	10	10	10	10	-	4	0 <sup>4</sup>	10	10	10	-	10	10	10	See underlying zone
Number Allowed per lot	-	1 <sup>5</sup>	1 <sup>5</sup>	1 <sup>5</sup>	1 <sup>5</sup>	1 <sup>5</sup>	1 <sup>5</sup>	-	10	10	1 <sup>5</sup>	1 <sup>5</sup>	1 <sup>5</sup>	-	1 <sup>5</sup>	1 <sup>5</sup>	1 <sup>5</sup>	See underlying zone
<b>Community or Civic Signs</b>																		
Max. Size (Square Ft.)	-	640	640	640	640	640	640	640	640	640	640	640	640	-	640	-	640	See underlying zone
Max. Height (Ft.)	-	28	28	28	28	28	28	28	28	28	28	28	28	-	28	-	28	See underlying zone
Number per Interchange	-	2	2	2	2	2	2	2	2	2	2	2	2	-	2	-	2	See underlying zone
Setback (from R.O.W.)	-	30	30	30	30	30	30	30	30	30	30	30	30	-	30	-	30	See underlying zone
<b>Construction Signs</b>																		
Max. Size (Square Ft.)	-	32	32	32	32	32	32	32	32	32	32	32	32	-	32	32	32	See underlying zone
Max. Height (Ft.)	-	8	8	8	8	8	8	8	8	8	8	8	8	-	8	8	8	See underlying zone
Number Allowed per lot	-	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	-	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	See underlying zone
<b>Informational Signs<sup>7</sup></b>																		
Max. Size (Square Ft.)	-	640	640	640	640	640	640	20	640	640	640	640	640	-	640	640	640	See underlying zone
Max. Height (Ft.)	-	28	28	28	28	28	28	10	28	28	28	28	28	-	28	28	28	See underlying zone
Number per Intersection	-	2	2	2	2	2	2	2	2	2	2	2	2	-	2	2	2	See underlying zone
Setback (from R.O.W.)	-	30	30	30	30	30	30	30	30	30	30	30	30	-	30	30	30	See underlying zone
<b>Canopy</b>																		
Max. Size	-	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25%	25% <sup>2</sup>	25%	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	-	25% <sup>2</sup>	25%	25% <sup>2</sup>	See underlying zone
Max. Height (Ft.)	-	NA	NA	NA	NA	NA	NA	2	NA	2	NA	NA	NA	-	NA	2	NA	See underlying zone
Number Allowed per building	-	1	1	1	1	1	1	NA	1	NA	1	1	1	-	1	NA	1	See underlying zone
<b>Window</b>																		
Max. Size	-	25% <sup>3</sup>	-	-	-	-	25% <sup>3</sup>	25%	25% <sup>3</sup>	25%	25% <sup>3</sup>	25% <sup>3</sup>	25% <sup>3</sup>	-	25% <sup>3</sup>	-	25% <sup>3</sup>	See underlying zone
Max. Height (Ft.)	-	NA	-	-	-	-	NA	3	NA	3	NA	NA	NA	-	NA	-	NA	See underlying zone
Number Allowed per building/storefront	-	2	-	-	-	-	2	NA	2	NA	2	2	2	-	2	-	2	See underlying zone
<b>Projecting</b>																		
Max. Size (Square Ft.)	-	12	12	12	12	12	12	12	12	12	12	12	12	-	12	-	12	See underlying zone
Max. Height (Ft.)	-	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	-	NA	-	NA	See underlying zone
Number Allowed per building	-	1	1	1	1	1	1	1	1	1	1	1	1	-	1	-	1	See underlying zone
<b>Name Plate</b>																		
Max. Size (Square Ft.)	-	2	2	2	2	2	2	2	2	2	2	2	2	-	2	-	2	See underlying zone
Max. Height (Ft.)	-	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	-	NA	-	NA	See underlying zone
Number Allowed per building	-	1	1	1	1	1	1	1	1	1	1	1	1	-	1	-	1	See underlying zone

-: not permitted NA: Not Applicable

1: Maximum letter height is equal to 12 inches

2: percentage of total Canopy area

3: percentage of total window area

4: When constructed as a landscaping element on an outlot or plat lot

5: Per Entrance

6: Maximum number equal to four when every sign equals the maximum size, no maximum number when using six square foot signs

7: All criteria shall apply unless the signs are controlled through the Nebraska Department of Roads or their agent(s)

Note: All signs shall have a Vertical Clearance of nine feet above any sidewalk, private drive, or parking.  
All signs shall have a Vertical Clearance of 12 feet above any Public Street.  
See Section 7.10 Home Occupations, for regulations on signs related to home occupations.

**3. Ground Monument**

- a. Monument signs shall be located along the frontage of the zoned lot. All signs shall be of permanent construction and are subject to the provisions of local codes and ordinances. On corner lots, the monument sign may be placed on either frontage.
- b. All ground monument signs shall be located on the same lot as the advertised use, except as provided in Section 07.08.07.
- c. Change panels may include advertised gasoline prices and any other service provided in the principal building / structure. Electronic message displays may be incorporated into the ground monument sign, provided a Conditional Use Permit has been obtained in accordance with Article 6 of these regulations.
- d. Setbacks for all ground monument signs are 10 feet.
- e. The following criteria apply to Ground Monument signs as designated in 7.06.05 Sec. 8 and subject to requirements for Conditional Use Permit:

District	Design Limitations for Ground Monuments		
	Max. Size	Max. Height	Max. Number
TA	50 square feet	10 feet	One per lot frontage. <sup>1</sup>
LLR	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
R-1	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
R-2	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
R-3	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
NRC	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
C-1	32 square feet <sup>2</sup>	6 feet <sup>2</sup>	One per lot frontage. <sup>2</sup>
C-2	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
C-3	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
I-1	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
I-2	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
RMD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
LWC			
HO	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
TC Area C	32 square feet	10 feet	One per lot frontage. <sup>1</sup>
TC Areas A & B	See limits in underlying zoning district	See limits in underlying zoning district	See limits in underlying zoning district

<sup>1</sup> On a corner lot that adjoins two Arterials or one Arterial and one Collector, the total number of signs may be increased to two with one on each frontage.

<sup>2</sup> Breakaway ground monument signs meeting MUTCD standards for breakaway supports, in C-1 District on lot frontage adjacent to a major arterial route, subject to requirements of conditional use permit.

**4. Center Identification Signs**

- a. All Center Identification signs shall be a ground monument style sign.
- b. All Center Identification signs shall be located on an outlot within the development.
- c. All Center Identification signs shall be constructed in a manner that is permanent and permeable.
- d. Acceptable materials include:
  - Exterior Insulation Finish System (EIFS)
  - Brick, Split face Concrete Masonry Units, Stone
  - Metal
  - Simulated Acrylic, or
  - Other materials provided said design is reflective of the character of the use.
- e. All Center Identification signs shall advertise only the name of the development, unless in compliance with Subsection g below.
- f. Setbacks for all Center Identification Signs shall be 20 feet along a street designated as an arterial or collector and 10 feet along any street designated as a local, minor or private street.
- g. Change panels and/or changeable copy may be allowed and have the following provisions:
  - Panel may be translucent and / or backlit
  - Panels may be opaque
  - Fonts shall be similar to that of the development name

- Said panels and / or copy match in color and material to the overall sign when created in an opaque style.
- h. The following criteria apply to Center Identification signs as designated in 7.06.05 Sec. 8 and subject to requirements for Conditional Use Permit:

District	Design Limitations for Center Identification Signs		
	Max. Size	Max. Height	Max. Number
TA			
LLR			
R-1			
R-2			
R-3			
NRC			
C-1			
C-2	100 square feet	20 feet	One per street frontage of the development
C-3	100 square feet	20 feet	One per street frontage of the development
I-1	100 square feet	20 feet	One per main entrance but not more than three.
I-2	100 square feet	20 feet	One per main entrance but not more than three.
LWC			
RMD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
HO	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
TC Area C	120 square feet	20 feet	One per main entrance but not more than three.
TC Areas A & B	See limits in underlying zoning district	See limits in underlying zoning district	See limits in underlying zoning district

**5. Wall Signs**

- a. All wall signs shall be mounted to the primary face of the use. Electronic message displays may be incorporated into the wall sign, provided a Conditional Use Permit has been obtained in accordance with Article 6 of these regulations.
- b. With in limits of District C-1 only, the term “Dual Frontage” shall include and unvacated Alley provided that a Conditional Use Permit is obtained in accordance with Article 6 of these regulations.
- c. The following criteria apply to Wall Signs as designated in 7.06.05 Sec. 8 and subject to requirements for Conditional Use Permit:

District	Design Limitations for Wall Signs		
	Max. Size	Max. Height	Max. Number
TA	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One per storefront -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
LLR			
R-1			
R-2			
R-3			
NRC	1.5 square feet per lineal foot of building / storefront to a Max. of 200 sq. ft.	45 feet above grade	One per storefront -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
C-1	1.5 square feet per lineal foot of building / storefront to a Max. of 200 sq. ft	45 feet above grade	One per storefront -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
C-2	1.5 square feet per lineal foot of building / storefront to a Max. of 600 sq. ft.	45 feet above grade	One per storefront -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
C-3	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One per storefront -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.

<b>I-1</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One per main frontage -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
<b>I-2</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One per main frontage -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
<b>LWC</b>			
<b>RMD</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
<b>HO</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
<b>TC Area C</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 600 sq. ft.	45 feet above grade	One per storefront -- <b>Dual Frontage</b> = one additional Wall Sign may be used provided the combined total area does not exceed 150% of the initial allowable area.
<b>TC Areas A &amp; B</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

**6. Incidental Signs**

- a. Incidental signs shall be placed in locations along the primary face of the building.
- b. Incidental signs may be placed on a second building face, when the building has dual frontage.
- c. The following criteria apply to Incidental Signs as designated in 7.06.05 Sec. 8 and subject to requirements for Conditional Use Permit:

District	Design Limitations for Incidental Signs		
	Max. Size	Max. Height	Max. Number
<b>TA</b>	10 sq. ft. of area each	25 feet above grade	One per 40 lineal feet of storefront
<b>LLR</b>	--	--	--
<b>R-1</b>	--	--	--
<b>R-2</b>	--	--	--
<b>R-3</b>	--	--	--
<b>NRC</b>	10 sq. ft. of area each	25 feet above grade	One per 40 lineal feet of storefront
<b>C-1</b>	<b>10 sq. ft. of area each</b>	<b>25 feet above grade</b>	One per 40 lineal feet of storefront
<b>C-2</b>	10 sq. ft. of area each	25 feet above grade	One per 40 lineal feet of storefront
<b>C-3</b>	10 sq. ft. of area each	25 feet above grade	One per 40 lineal feet of storefront
<b>I-1</b>	10 sq. ft. of area each	25 feet above grade	One per 40 lineal feet of storefront
<b>I-2</b>	10 sq. ft. of area each	25 feet above grade	One per 40 lineal feet of storefront
<b>LWC</b>	--	--	--
<b>RMD</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
<b>HO</b>	See Section ****	See Section 5.21	One per 40 lineal feet of storefront
<b>TC Area C</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district
<b>TC Areas A &amp; B</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

**7. Other Permitted Signs** as designated in 7.06.05 Sec. 8 and subject to requirements for Conditional Use Permit

- i. Canopy
- ii. Identification
- iii. Projecting
- iv. Subdivision Entrance Signs
- v. Construction Signs
- vi. Community or Civic Signs
- vii. Informational Signs

- viii. Real Estate
- ix. Nameplate
- x. Temporary (see Section 7.06.21)
- xi. Window

**8. Informational and Community or Civic Signs**

Informational and Community or Civic Signs shall be located near the major interchanges of a Primary Highway unless the sign is considered to be a Logo Sign and/or other sign controlled by the Nebraska Department of Roads or their agent(s). Community or Civic Signs shall dedicate a minimum of 25% of the square footage to community or civic activities.

**9. Electronic Message Display Signs**

In all zoning districts, on-premises electronic message display signs may be allowed if a Conditional Use Permit has been obtained in accordance with Article 6 of these regulations. All electronic message display signs shall be constructed as an integral part of a permanent sign (monument, wall, projecting) constructed on site. Integral shall be considered to be incorporated into the framework and architectural design of the permanent sign. The sign area displaying electronic changeable messages shall be included as a part of the permitted signage for the premises on which it is located. The maximum sign area for an electronic message display portion of a sign shall be no greater than thirty-five percent of the maximum total allowable sign area.

No message on an electronic message display sign shall be animated, have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity. Such displays shall contain static messages only. Transition between messages are permitted, but such transitions may only fade, dissolve, scroll, or travel, and not have the appearance of moving text or images. The transition shall not exceed a duration of two (2) seconds. On electronic message displays of 60 square feet or less, each advertisement displayed must remain fixed for at least five (5) seconds; if there is more than one advertisement per face, then when any advertisement changes, the entire face shall remain fixed for five (5) seconds. Electronic message displays greater than 60 square feet must remain fixed for at least ten (10) seconds; if there is more than one advertisement per face, then when any advertisement changes, the entire face shall remain fixed for ten (10) seconds. Such signs must contain a default mechanism that will freeze the sign in one position if a malfunction occurs. Electronic message display signs shall include internal ambient light monitors that automatically adjust the brightness level of the electronic display.

**10. Special Signage Conditions**

The following special conditions apply to stand-alone ATM's, Coffee Kiosks and other Kiosks.

- A. Stand-alone ATM's may have the following:
  - One wall sign on each exterior wall provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
  - Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
  - Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
  - All signs are subject to the required permitting process of this Ordinance.
  - Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.
- B. Coffee Kiosks and other Kiosks may have the following:
  - One wall sign on each exterior wall not used for drive-up service provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
  - Where a canopy is integrated into the Coffee Kiosks / Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk / Kiosks, provided the overall height

of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.

- Directional signage shall be contained on the Coffee Kiosk /Kiosk, painted within a drive lane or in any curbing defining a drive lane
- Window signs limited to menu boards and daily specials shall not require a sign permit.
- All signs are subject to the required permitting process of this Ordinance, unless otherwise noted.

#### 7.06.06 Permits Required

1. If a sign requiring a permit under the provision of the ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of Section 7.09.
2. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with Section 7.09
3. No signs shall be erected or placed in the public right-of-way except in accordance with Section 7.08.01.
4. Except as otherwise provided in this paragraph, no sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect and with the Common Signage Plan in effect for the property. Any existing sign that does not meet the requirements of this Chapter shall be deemed a nonconforming sign and shall either be removed or brought into compliance with the City's Zoning Regulations when a substantial alteration to the sign is made. For purposes of this Section, a "substantial alteration" shall be defined as repair or refurbishing of any sign that alters its physical dimensions or height, or replaces any integral component of the sign including, but not limited to, alterations to exterior cabinets, bases, or poles. No such sign may be enlarged or altered in a way which increases its nonconformity; however customary maintenance may be permitted. "Customary maintenance" shall be defined as any activity or work performed for the purpose of actively maintaining the sign in the existing approved physical configuration and size dimensions at the specific location approved by the City and includes the following:
  - a. Repainting the sign text, cabinet, or other component of the sign; or
  - b. Changing the advertising message; or
  - c. Routine maintenance with substantially the same materials.

Furthermore, a nonconforming sign may remain in use provided no additions or enlargements are made thereto and no structural alterations are made therein, except as permitted for "customary maintenance" as described above. If said nonconforming sign is destroyed or removed, every future sign at the same location must be in conformance with the provisions of this Chapter.

#### 7.06.07 Design, Construction, Maintenance

All signs shall be designed, constructed and maintained in accordance with the following standards:

1. All signs shall comply with applicable provisions of the Uniform Building Code and the National Electrical Code.
2. Except for flags, temporary signs, real estate signs, political signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
3. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this code, at all times.

### **Section 7.07 Signage Plans**

#### 7.07.01 General Provisions

1. No permit shall be issued for an individual sign requiring a permit unless and until an Individual Signage Plan or Master Signage Plan for the zoned lot on which the sign will be erected has been submitted to the City and approved by the Building Inspector as conforming to this section.
2. All signage plans and permits shall include the following minimum information:
  - a. Color scheme;
  - b. Lettering or graphic style;
  - c. Lighting;
  - d. Location of each sign on the buildings;
  - e. Material;

- f. Sign proportions; and
- g. Any other criteria required by the appropriate signage plan.

7.07.02 *Master Signage Plan.*

For any zoned lot on which the owner proposes to erect more than one sign requiring a permit, the owner shall submit to the Building Inspector a Master Signage Plan containing the following:

1. An accurate plot plan of the zone lot, at such a scale as the Building Inspector may require;
2. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot;
3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the zone lot(s) included in the plan under this ordinance and
4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

7.07.03 *Individual Signage Plan*

1. For any zoned lot on which a Master Signage Plan has been submitted and approved, an applicant shall submit a permit request to the City of Wahoo for the installation of any individual sign.
2. For any zoned lot and / or storefront where an individual tenant is moving into an established lease space, the new tenant or said agent for new tenant shall submit an Individual Signage Plan to the City of Wahoo for review, comment and approval.

7.07.04 *Showing Window Signs on Individual, or Master Signage Plan.*

An Individual Signage Plan or Master Signage Plan including window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside window) and need not specify the exact dimension or nature of every window sign.

7.07.05 *Other Provisions of Master Signage Plans.*

The Master or Individual Signage Plan may contain such other restrictions as the owners of the zone lots may reasonably determine.

7.07.06 *Consent.*

The Master or Individual Signage Plan shall be signed by all owners or their authorized agents in such form as required by the City.

7.07.07 *Procedures.*

A Master or Individual Signage Plan shall be included in any development plan, site plan, or other official plan required by the city for the proposed development and shall be processed simultaneously with such other plan.

7.07.08 *Amendment.*

A Master or Individual Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of the ordinance then in effect.

7.07.09 *Binding Effect.*

After approval of a Master or Individual Signage Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such a plan and any other provision of this ordinance, the ordinance shall control.

## **Section 7.08 Other Signage Provisions**

7.08.01 *Signs in the Public Right-of-Way*

No signs shall be allowed in the public right-of-way, except for the following:

1. **Permanent Signs.** Permanent signs, including:
  - a. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, advertise community events, and direct or regulate pedestrian or vehicular traffic;
  - b. Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
  - c. Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Section 7.06.05.
2. No signs shall be erected in any Nebraska State Highway right of way without the written approval of the Nebraska Department of Roads.
3. Temporary signs placed within the City of Wahoo street right of way may not exceed 432 square inches (3 square feet) in area, and shall not create an obstruction to vision as per Section 4.08 of this Ordinance and/or a collision hazard to the public. Temporary signs shall not be placed on trees or utility structures, including poles, cabinets, fire hydrants, and streetlights. Temporary signs shall not be placed in the right of way without permission of the abutting property owner.

**7.08.02 Temporary Signs**

Temporary signs shall meet the following criteria:

1. No temporary sign shall be of such size, message, or character so to harm the public, health, safety or general welfare. No sign in this provision shall create an obstruction to vision, as per Section 4.08 of this Ordinance and/or a collision hazard to the public.
2. Temporary signs may be for a continual period that has a limited amount of time not to exceed thirty (30) days except that Real Estate signs may be in place until the property sale is finalized.
3. Temporary signs may be allowed in a manner where they are put in place during certain periods of time (set up in the morning and taken down in the evening) without a specific end date and these signs may advertise an off-premises business and/or organization.
4. Real Estate signs shall be on the property being advertised unless there is an "Open House" Real Estate sign located elsewhere for not more than two days.
5. Temporary signs advertising or referencing a specific event shall be removed within ten days after the event.
6. Portable or mobile signs as defined in these regulations shall not be placed in any street right of way. The face of a portable sign may not be larger than 4 feet by 8 feet, and must first obtain a Portable Sign Permit from the building inspector/zoning administrator. Such permit is limited to a period of thirty (30) days, and may be renewed. These signs may advertise an off-premises business and/or organizations.

**7.08.03 Emergency Signs (Permitted)**

Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

**7.08.04 Other Signs Forfeited**

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

**7.08.05 Signs Exempt from Regulation Under this Ordinance**

The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, as per Section 4.08 of this Ordinance and / or a collision hazard to the public:

Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;

Any religious symbol;

Construction signs when equal to six square feet or less;

Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located

Holiday lights and decorations with no commercial message;

Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and

A political campaign sign, on private property, exhibited in conjunction with a public election.

**7.08.06 Signs Prohibited Under These Regulations**

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:

1. Beacons;
2. Marquee signs;
3. Roof signs;
4. Suspended signs;
5. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section;
6. Permanent off-premises signs, except as stipulated in 07.08.07, if a Conditional Use Permit for such has been obtained in accordance with Article 6 of these Regulations;
7. Animated signs;
8. Audible Signs.



**07.08.07** Off-Premise Signs may be allowed if a Conditional Use Permit has been obtained in accordance with Article 6 of these regulations, subject to limitations outlined within Design Standards Transportation Corridor Overlay Districts Section 7.08.08, and subject to the following conditions:

1. Districts Allowed. Off-premise signs shall only be permitted in the **C-2, C-3, T-A, I-1 & I-2** districts established under this Ordinance.
2. Types of Signs. Off-premise signs shall be limited to pole and/or monument signs.
3. Sign Surface Area for Off-Premise Signs.
  - a. *Limited Access Highways* – The maximum sign surface area for off-premise signs oriented toward a limited access highway shall be six-hundred and seventy-two (672) square feet.
  - b. *All Other Streets* – The maximum sign surface area for off-premise signs oriented toward any street not classified as a limited access highway shall be three hundred (300) square feet.
  - c. *Number of Displays* – An off-premise sign shall not contain more than two (2) displays or messages per sign surface.
  - d. *Concealment of Sign Supports* – The backs of off-premise signs shall be: concealed by another sign surface; screened by suitable architectural treatment; or, painted to blend with the surrounding (and maintained as such), so that the supports, tie rods, bracing or framework which supports the sign surface is screened from view.
  - e. *Empty Displays Prohibited* – Empty sign surfaces, or signs without a display or message covering the entire sign surface, shall be prohibited. This regulation shall apply individually to each display surface.
4. Distance Between Off-Premise Signs.
  - a. *Linear Spacing / Limited Access Highways* – The minimum separation between off-premise signs located along and oriented toward the same limited access highway shall be two-thousand five hundred (2,500) feet.
  - b. *Linear Spacing / All Other Streets* – The minimum separation between off-premise signs located along and oriented toward the same street shall be seven-hundred and fifty (750) feet.
  - c. *Measurement of Linear Spacing* – The method of measurement of the spacing between off-premise signs oriented toward the same limited access highway or street shall be along the centerline of the limited access highway or street to which the off-premise sign is oriented, from the point in the centerline closest to the leading edge of the off-premise sign.
  - d. *Radial Spacing* – In no event shall an off-premise sign be located closer than three hundred (300) feet from any other off-premise sign regardless of location or orientation.
5. Placement Limitations Along Limited Access Highways.
  - a. *Location Restrictions* – No off-premise sign shall be located within five hundred (500) feet of an interchange, at-grade intersection or rest area on any limited access highway.
  - b. *Measurement* – The method of measurement of the location restrictions along a limited access highway shall be along the centerline of the limited access highway or street, measured from the nearest point of the intersection of the centerline of the exit / entrance ramp or intersecting street and the right hand lane of the main traveled way of the limited access highway closest to the off-premise sign.
6. Maximum Height of Off-Premise Signs.  
The maximum height of an off-premise pole sign shall conform to all applicable regulations from appropriate authorities. Ground monument signs shall be in accordance with conditions set forth in 7.06.05.
7. Minimum Front Yard Setback, Side Yard Setback and Rear Yard Setback of Off-Premise Signs.  
The minimum front, rear, or side yard setback for an off-premise sign shall be the same as required for any building or structure within the zoning district.
8. Construction of Off-Premise Signs.  
The supports, uprights, bracing and framework of an off-premise pole sign shall be of metal construction.

**07.08.08 Signs in Transportation Corridor Overlay District, Areas A, B, and C**

The Transportation Corridor Overlay District, Area C, extends one-quarter of a mile either side of the U. S. Highway 77 corridor. Signs located within the Transportation Corridor Overlay District, Area C, shall comply with all applicable Nebraska Department of Roads and/or Federal Highway Administration Regulations and requirements, and obtain any necessary permits and approval through those agencies, in addition to compliance with Section 7.06.05 and any other applicable sections of the Wahoo Zoning Ordinance.

Pole signs located within the Transportation Corridor Overlay District, Area C, may be allowed if a Conditional Use Permit has been obtained in accordance with Article 6 of these regulations, and shall be limited to:

1. A maximum size of 200 square feet (see 7.06.04 Computations)
2. A maximum height of 35 feet (see 7.06.04 Computations)
3. On premise signs only
4. One pole sign per parcel
5. Setbacks for pole signs shall be the same as required for any building or structure within the zoning district
6. Signs shall be internally lighted

The Transportation Corridor Overlay District, Area A and Transportation Corridor Overlay District, Area B, are defined in Section 5.21.03. Signs located within the Transportation Corridor Overlay District, Area A and B shall comply with all applicable Nebraska Department of Roads and/or Federal Highway Administration Regulations and requirements, and obtain any necessary permits and approval through those agencies, in addition to compliance with Section 7.06.05 and any other applicable sections of the Wahoo Zoning Ordinance. New pole signs are not permitted within Transportation Corridor Overlay District Area A and Area B.

## **Section 7.09 Permit Procedures**

### *7.09.01 General Permit Procedures*

The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, and the submission and review of Master Signage Plans.

### *7.09.02 Applications*

All applications for sign permits of any kind and for approval of a Master Signage Plan shall be submitted to the City on an application form or in accordance with application specifications published by the City.

### *7.09.03 Fees*

Each application for a sign permit or for approval of a Master Signage Plan shall be accompanied by the applicable fees, which shall be established in the Master Fee Schedule.

### *7.09.04 Completeness*

Upon receiving an application for a sign permit or for a Master Signage Plan, the Building Inspector shall review it for completeness. If the Building Inspector finds that it is complete, the application shall then be processed. If the Building Inspector finds that it is incomplete, the Building Inspector shall, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.

### *7.09.05 Action*

Within fourteen working days of the submission of a complete application for a sign permit, the Building Inspector shall either:

1. Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this ordinance and applicable Master Signage Plan; or
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this ordinance and the applicable Master Signage Plan. In case of a rejection, the Building Inspector shall specify in the rejection the section or sections of the ordinance or applicable plan with which the sign(s) is inconsistent.

### *7.09.06 Permits to Construct or Modify Signs*

All signs shall be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the Building Inspector. Such permits shall be issued only in accordance with the following requirements and procedures.

### *7.09.07 Permit for New Sign or for Sign Modification*

An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Signage Plan then in effect for the zone lot.

### *7.09.08 Inspection*

The Building Inspector shall cause an inspection of the zoned lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is substantially complete but not in

full compliance with this ordinance and applicable codes, the Building Inspector shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse.

7.09.09 *Sign Permits — Continuing*

The owner of a zone lot containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding the fact that a particular zone lot may be included with other zone lots in a Common Signage Plan.

7.09.10 *Initial Sign Permit*

An initial sign permit shall be automatically issued by the Building Inspector covering the period from the date of inspection of the completed sign installation, construction, or modification through the last day of that calendar year.

7.09.11 *Lapse of Sign Permit*

A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 180 days or more and is not renewed within 30 days of a notice from the city to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

7.09.12 *Assignment of Sign Permits*

A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Building Inspector may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

7.09.13 *Sign Removal Required*

A sign that was constructed, painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed or not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall be forthwith removed without notice or action from the city.

7.09.14 *Violations*

1. Any of the following shall be a violation of these regulations and shall be subject to the enforcement remedies and penalties provided by the Wahoo Zoning Ordinance, and by state law:
  - a. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
  - b. To install, create, erect, or maintain any sign requiring a permit without such permit;
  - c. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed.
  - d. To continue any such violation. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.
  - e. Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.

7.09.15 *Fee Schedule*

The fees for sign permits and plans are contained within the Master Fee Schedule.

**Section 7.10 Home Occupations**

Home Occupations shall be permitted as accessory uses in the TA, LLR, R-1, R-2, R-3, RM, C-1, and NRC Districts, subject to the following:

7.10.01 A home occupation shall be permitted when said occupation conducted on residentially used premises is considered customary and traditional, incidental to the primary use of the premises as a residence.

7.10.02 Permitted home occupations shall be of a personal service nature limited to domestic crafts and professional service, including, but not limited to:

1. Such domestic crafts as dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work, carpentry work, and furniture repair.
2. Such professions as law, medicine, architecture, engineering, planning, real estate, insurance, notary public, manufacturer's agent, clergy, writing, painting, photography, and tutoring.
3. Family Child Care Home I licensed in accordance with Nebr. Rev. Stat. §§71-1901 et. seq. and 71-908 et. Seq. (R.R.S. 1996).
4. Barber and Beauty Shops.
  - a. Limited to one chair.
5. Distribution and sales of products such as cosmetics, home/health care products, mail order, internet-based businesses, telecommuting, and other similar uses.
6. Services provided outside the home such as lawn care, snow removal, and other similar uses.

7.10.03 *Performance Standards for Home Occupations*

1. Permitted home occupations shall be subject to all the regulations of the applicable zone district.
2. Permitted home occupations shall not affect adversely the residential character of the zone district or interfere with the reasonable enjoyment of adjoining properties.
3. Prohibited uses are those uses that are deemed to be in violation of the Performance Standards of this Ordinance.
4. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
5. The operator conducting the home occupation shall be the sole entrepreneur, and he shall not employ any other person other than a member of the immediate family residing on the premises. This standard applies only when the primary service is conducted within the confines of the residence.
6. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
7. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
8. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
9. Home occupations conducted within an Accessory Building shall be confined to the structure of the said Accessory Building.
10. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.
11. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities, and no additional driveway to serve such home occupations shall be permitted. Parking shall not impede or hinder traffic on any public right-of-way.
12. No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.

7.10.04 *Violations:*

1. Violation of these regulations shall be subject to the enforcement remedies and penalties provided by the Wahoo Zoning Ordinance, and by state law. A home occupation in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
  - a. That any condition of the home occupation performance standards has been violated;

- b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
- c. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.

### **Section 7.11 TOWER REGULATIONS.**

#### *7.11.01 Definitions*

The following definitions shall apply strictly to this Section and any conflict with other definitions within this other portions of this Ordinance shall not exist.

1. **ABANDONMENT** shall mean: (1) to cease operation for a period of 60 or more consecutive days; (2) to reduce the affected radiated power of an antenna by 75 percent for 60 or more consecutive days; (3) to relocate an antenna at a point less than 80 percent of the height of an antenna support structure; or (4) to reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days.
2. **ANTENNA** shall mean any exterior apparatus designed for telephonic, radio, data, Internet or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower, pole, light standard or building for the purpose of providing personal wireless services including, for example, unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for “cellular,” “paging,” “enhanced specialized mobile radio,” “low power mobile radio” and “personal communications services” telecommunications services, and its attendant base station.
3. **ANTENNA HEIGHT** shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the parcel shall be used in calculating the antenna height.
4. **ANTENNA SUPPORT STRUCTURE** shall mean any pole, light standard, telescoping mast, tower, tripod or other structure which supports a device used in the transmitting or receiving of radio, telephonic or television frequency or television signals.
5. **CELL SITE** shall mean a tract or parcel of land that contains the telecommunications service facilities including any antenna, tower support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications services.
6. **FAA** shall mean the Federal Aviation Administration.
7. **FCC** shall mean the Federal Communications Commission.
8. **GOVERNING AUTHORITY** shall mean the Mayor and Council of the City of Wahoo, Nebraska.
9. **PERSONAL WIRELESS SERVICE** and **PERSONAL WIRELESS SERVICE FACILITIES**, as used in this Ordinance, shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as they may be amended now or in the future.
10. **TOWER** shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including any antenna support structure, self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

#### *7.11.02 Exemptions*

The following are exempt from the provisions of this Ordinance and shall be permitted in all zones:

1. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
2. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.
3. Radar systems for military and civilian communications and navigation.
4. Wireless radio utilized for temporary emergency communications in the event of a disaster.
5. Licensed amateur (ham) radio operations.
6. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.
7. Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structure work or changes in height or dimensions of antennas, towers, or buildings), provided that compliance with the standards of this ordinance are maintained.
8. Subject to compliance with all other applicable standards of this ordinance, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until 30 days after the completion of such emergency activity.

#### 7.11.03 *Policy Statement*

The Planning Commission and City Council have received requests to site towers and antennas. The purpose of this Ordinance is to provide specific regulations for the placement, construction and modification of radio, television, and personal wireless service facilities. The provisions of this Ordinance are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of radio, television, and personal wireless services, nor shall the provisions of this Ordinance be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent services. The goals of this Ordinance are to: (i) encourage the location of towers on public property and in non-residential areas and to minimize the total number of towers throughout the City; (ii) encourage strongly the joint use of new and existing tower sites; (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the City is minimal; (iv) encourage users of towers and antennas to configure them in a way that minimizes the visual impact of the towers and antennas; and (v) enhance the ability of the providers of telecommunications services to provide such services throughout the City quickly, effectively, and efficiently. Accordingly, the City Council finds that the promulgation of this Ordinance is warranted and necessary:

To manage the location of towers and antennas in the City and provide for the use of public property for the placement thereof;

1. To protect residential areas and land uses from potential adverse impacts of towers and falling ice;
2. To protect the airport hazard areas of the Wahoo Municipal Airport from potential adverse impact to operation, approach, transition and turning zones as depicted in the Nebraska Department of Aeronautics (NDA) zoning map for Wahoo Municipal Airport;
3. To minimize visual and aesthetic impacts of towers through minimal use of towers, careful design, siting, landscape screening, and innovative camouflaging techniques;
4. To accommodate the growing need for towers;
5. To promote and encourage shared use/co-location of existing and new towers as a primary option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future;
6. To consider the public health and safety of towers to the extent allowed by the Telecommunications Act of 1996; and
7. To avoid potential damage to adjacent properties through engineering and proper siting of antenna support structure.

New Uses: All new antennas shall comply with this Ordinance after the date of passage.

Existing Uses: All towers existing on the date of passage of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such existing towers. New construction other than routine maintenance on existing towers shall comply with the requirements of this Ordinance.

#### 7.11.04 *Industry Site Selection Criteria*

In siting a new tower or antenna site, it is anticipated that the industry will propose locations that are technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria that are not listed in order of priority;

1. Topography as it relates to line of sight transmissions for optimum efficiency.

2. Availability of road access.
3. Availability of electric power.
4. Availability of land-based telephone lines or microwave link capability.
5. Leasable lands, and landlords who want facilities to be located on their properties consistent with zoning regulations.
6. Screening potential of existing vegetation, structures and topographic features.
7. Zoning that will allow personal wireless service facilities.
8. Compatibility with adjacent land uses.
9. The fewest number of sites to cover the desired area.
10. The greatest amount of coverage, consistent with physical requirements.
11. Opportunities to mitigate possible visual impact.
12. Availability of suitable existing structures for antenna mounting.

#### 7.11.05 *City Site Selection Criteria*

As a fundamental element of this Ordinance, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, is required to demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.

Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use-or lease of the support structure.

Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

Location and design of sites in all Districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

#### 7.11.06 *Priorities*

The following establishes the order of priorities for locating new communications facilities:

1. Place antennas and towers on public property (excluding prairie, conservation or wildlife areas).
2. Place antennas on appropriate existing structures, such as buildings, towers, water towers, and smokestacks in other than residentially zoned districts.
3. Place antennas and towers in districts zoned District TA-1 Transitional Agricultural District, LLR, I-1 Light Industrial District, and I-2 Heavy Industrial District, which do not adjoin or adversely impact residential neighborhoods.
4. Place antennas and towers in the NRC Neighborhood Residential/Commercial District, provided that such towers may be no more than 40 feet in height.
5. Place antennas and towers on other private non-residential property in districts zoned C-1 Commercial District-Central Business District, and C-2 Commercial District-Highway.
6. Place antennas and towers on multi-family residential structures exceeding 30 feet in height in districts zoned R-3 Residential District-Multi-Family.
7. Place antennas and towers in R-2 Residential District-Single Family and R-3, Residential District-Single and Two Family: (a) only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and (b) only on or in existing churches, parks (as provided in Sec. 7.11.07), schools, utility facilities or other appropriate public facilities.

An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, or technological feasibility, no other appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of structures in excess of 30 feet in height within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than 30 feet, towers and water tanks within one-quarter mile of

the proposed tower.

#### 7.11.07 *Use of City Property*

##### 1. Priority of Users

Priority for the use of City-owned land for wireless telecommunication antennas and towers will be given to the following entities in descending order:

- a. City of Wahoo;
- b. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Wahoo and private entities with a public safety agreement with the City of Wahoo;
- c. Other governmental agencies, for uses which are not related to public safety; and
- d. Entities providing licensed, and unlicensed (where permitted by law), commercial wireless telecommunication services, cellular, personal communicational services (PCS), radio and television services, specialized mobilized radio (SMIR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.

##### 2. Minimum Requirements

The placement of wireless telecommunication antennas or towers on City-owned property must comply with the following requirements:

1. The antennas or tower will not interfere with the purpose for which the City-owned property is intended;
2. The antennas or tower will have no significant adverse impact on surrounding private property;
3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of antenna or tower removal;
5. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 7.11.07 (1);
6. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antennas or tower;
7. The user must obtain all necessary land use approvals; and
8. The applicant will cooperate with the City's objective to promote co-locations and thus limit the number of separate antenna sites requested.

#### 7.11.08 *Special Requirements*

The use of certain City-owned property, such as water tower sites and parks, for wireless telecommunication antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of wireless telecommunication antennas or towers on these special City-owned sites will be allowed only when the following additional requirements are met:

1. **Water Tower Sites** — The City's water tower represents a large public investment in water pressure stabilization and peak capacity reserves. Protection of the quality of the City's water supply is of prime importance to the City. As access to the City's water storage systems increases, so too increased is the potential for contamination of the public water supply. For these reasons, the placement of wireless telecommunication antennas on towers or the water tower site will be allowed only when the City is fully satisfied that the following additional requirements are met:
  - a. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
  - b. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
  - c. The presence of the facility will not increase the water tower maintenance cost to the City; and
  - d. The presence of the facility will not be harmful to the health of workers maintaining the water tower.
2. **Parks** — the presence of certain personal wireless service facilities, antennas or towers represents a potential conflict with the purpose of some parks. In no case shall towers or antennas be allowed in designated prairie or other conservation or wildlife area unless they are to be installed in areas which currently contain tower facilities or antennas, and in no case shall towers or antennas be allowed in



areas without road access to the base of the tower, antenna support structure or facilities. Personal wireless facilities, antenna support structure, antennas or towers will be considered only in the following parks after the recommendation of the, Planning Commission and approval of the City Council:

- a. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
- b. Commercial recreation areas and major play fields; and
- c. Park maintenance facilities.

#### 7.11.09 Co-Location

1. To minimize adverse visual impacts associated with the proliferation of towers, co-location of antennas by more than one carrier on existing or new towers and location of such antennas on public property shall take precedence over the construction of new single-use towers on public property as follows:
  - a. Proposed antennas may, and are encouraged by the opportunity for expedited review as provided in this Ordinance to co-locate onto existing towers. Even where such co-location is accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this Ordinance, new or additional conditional use approval is required, and any other permit, license, lease, franchise requirements also must be satisfied.
  - b. The City may deny the application to construct a new tower if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the antenna on an existing structure and/or public property.
  - c. In order to reduce the number of antenna support structures needed in the City in the future, any new proposed support structure shall be designed to accommodate antenna for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.
  - d. Unless co-location has been demonstrated to be infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users. The site plan for towers in excess of 100 feet must propose space for two comparable tower users while the site plan for towers under 100 feet must propose space for one comparable tower user.
  - e. To provide further incentive for co-location as a primary option, an existing tower may be modified or reconstructed to accommodate the co-location of additional antenna, provided the additional antenna shall be consistent with the use and aesthetics as that on the existing tower. This is permitted by conditional use permit for existing towers in all zoning districts, subject to the following criteria being met:
    - i. Height: An existing tower may be modified or rebuilt to a taller height, to accommodate the co-location of additional antenna, so long as it is done in accordance with (d) and (e), above.
    - ii. Onsite Location: A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site within 50 feet of its existing location so long as it remains within the same zone and complies with the other provisions of this Ordinance. After the tower is rebuilt to accommodate co-location, only one tower may remain on site.
    - iii. Signage Prohibited: Except as set forth in 7.11.08 (2)(c), no signs, banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.
2. Subject to the priorities as set forth in 7.11.05, to minimize adverse visual impacts associated with the proliferation of towers, co-location of antennas by more than one carrier on existing or new towers and location of such antennas on commercial, business, industrial or residential property shall take precedence over the construction of new single-use towers on commercial, business, industrial or residential property, as follows:
  - a. Proposed antennas may co-locate onto existing towers. Even where such co-location is accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this Ordinance, new or additional conditional use approval is required, and any other permit, license, lease, or franchise requirements also must be satisfied.
  - b. The City may deny the application to construct a new tower if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the antenna on an existing structure.
  - c. In order to reduce the number of antenna support structures needed in the City in the future, any new proposed support structure shall be designed to accommodate antenna for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical

- or physical reasons.
- d. Unless co-location has been demonstrated to be infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users. The site plan for towers in excess of 100 feet must propose space for two comparable tower users while the site plan for towers under 100 feet must propose space for one comparable tower user.
- e. To provide further incentive for co-location as a primary option, an existing tower may be modified or reconstructed to accommodate the co-location of additional antenna, provided the additional antenna shall be consistent with the use and aesthetics as that on the existing tower. This is permitted by conditional use permit for existing towers in all zoning districts, subject to the following criteria being met:
  - i. Height: An existing tower may be modified or rebuilt to a taller height, to accommodate the co-location of additional antenna, so long as it is done in accordance with (d) and (e), above.
  - ii. Onsite Location: A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within 50 feet of its existing location so long as it remains within the same zone and complies with the other provisions of this Ordinance. After the tower is rebuilt to accommodate co-location, only one tower may remain on site.
  - iii. Signage Prohibited: Except as set forth in 7.11.09 (2) (c), no signs, banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.

#### 7.11.10 Design Criteria

1. New towers and antenna support structure shall be designed to accommodate co-location for antenna for more than one user throughout the City in zoning districts as permitted by this Ordinance, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.
2. Facilities should be architecturally compatible with the surrounding buildings and land uses in the zoning district or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical.
  - a. Setback:
    - i. All towers up to fifty (50) feet in height shall be set back on all sides a distance equal to the manufacturers designed fall distance radius. The height of the tower shall be measured from the floor of the base pad to the top of the tower. Setback requirements shall be measured from the base of the tower to the nearest boundary line of the tract of land on which it is located.
    - ii. Towers of one hundred fifty (150) feet or less in height located in or adjacent to any residential or commercial district shall be located so that the distance from the base of the tower to any adjoining property line, or occupied structures other than those utilized by the tower owner, is a minimum of one hundred percent (100%) of the height of the tower.
    - iii. Towers exceeding one hundred fifty (150) feet in height may not be located in any residential district or commercial district, and must be separated from said districts and occupied structures other than those utilized by the tower owner, by a minimum of 300 feet or 100% of the height of the proposed tower, whichever is greater. Towers with heights greater than one hundred fifty (150) feet shall only be located in an industrial or agriculturally zoned district.
  - b. Towers must meet the following minimum separation requirements from other towers:
    - i. Monopole tower structures shall be separated from all other towers whether monopole, self-supporting lattice, or guyed towers, by a minimum of seven hundred fifty (750) feet.
    - ii. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of five thousand (5,000) feet.
  - c. Color: Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
  - d. Lights. Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA.
  - e. Equipment Structures: Ground level equipment and buildings and the tower base shall be screened from public streets and residentially zoned properties. The standards for the equipment buildings are as follows:
    - i. The maximum floor area is 350 square feet per provider and the maximum height is 12 feet. Depending upon the aesthetics and other issues, the City, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

- ii. Ground level buildings shall be screened from adjacent properties by landscape plantings, fencing and other appropriate means, as specified herein or in the City Code.
- iii. Equipment buildings mounted on a roof and other roof mounted equipment shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.
- iv. In instances where equipment structures are located in residential zones or in close proximity to public right-of-ways, equipment structures shall comply with setback requirements and shall be designed so as to conform in appearance with nearby structures.

Equipment buildings, antenna and related equipment shall occupy no more than 25 percent of the total roof area of a building, which may vary in the City's sole discretion if co-location and an adequate penthouse-type structure are used.

Antenna or equipment buildings not meeting these standards require a special exception in addition to the conditional use permit. The special exception must be approved on a comprehensive sketch plan or final development plan, as applicable.

3. Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations in accordance with the compliance deadlines/requirements of such standards and regulations. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owners' expense.
4. Building Codes: Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said 30 days, the City may remove such tower at the owner's expense.
5. Structural Design: Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EJA Standards and all other good industry practices in effect at the time of said improvement or addition. Said plans shall be submitted to and reviewed at the time building permits are requested.
6. Fencing: A secure fence of suitable materials shall be provided around each tower. Access to the tower and equipment structures shall be through a locked gate.
7. Antenna height: The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
8. Antenna support structure safety: The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas also will not be negatively affected by interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
9. Required parking: If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the City. Security fencing should be colored or should be of a design that blends into the character of the existing environment.
10. Antenna Criteria: Antenna on or above a structure shall be subject to the following:
  - a. The antenna must be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.

- b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless, for technical reasons, the antenna needs to project above the roof line. In no event shall an antenna project more than 10 feet above the roofline.
- c. The antenna shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
- e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.
- f. The antenna, facilities and accessory equipment shelter must be architecturally and visually (color,-size; bulk) compatible with surrounding existing buildings, structures, vegetation and/or uses or those likely to exist under the terms of the under in zoning. Such antenna, facilities and accessory equipment shelter will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.
- g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by City, in City's sole discretion, taking into consideration the site as built.
- h. For installations on buildings greater than 30 feet in height, see other applicable provisions of this Ordinance. In addition to the other requirements of this Ordinance, on buildings 30 feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:
  - i. The City finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
  - ii. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.
  - iii. The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the City's sole discretion, if co-location and an adequate penthouse-type structure are used.
  - iv. Roof-mounted antenna and related base stations must be appropriately camouflaged or substantially screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
  - v. No portion of the antenna may exceed 10 feet above the height of the existing building.
- i. If a proposed antenna is located on a building or a lot subject to a site review, conditional use approval is still required prior to the issuance of a building permit.
- j. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with the City Code.
- k. No antenna owner or lessee or officer or employee thereof shall fail to cooperate in good faith to accommodate other competitors in their attempts to use the same tower or building for other antennas. If a dispute arises about the feasibility of accommodating another competitor, the City may require a third party technical study, at the expense of either or both parties, to resolve the dispute.
- l. No antenna owner or lessee shall fail to assure that the antenna complies at all times with the then current applicable EIA or FCC standards, or other applicable federal standards, whichever standard is more stringent. After installation, but prior to putting the antenna in service, each antenna owner shall provide a notarized statement signed by a qualified engineer to that effect.
- m. No antenna shall cause localized interference with the reception of any other communications signals including, but not limited to, public safety signals, and television and radio broadcast signals.
- n. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this Ordinance.

#### 7.11.11 *Other Permitted Uses*

Applications for antenna for personal wireless communications services and associated unmanned equipment buildings may be reviewed in accordance with the use by special review process so long as the requirements of this Ordinance and the following standards are met:

1. In addition to the other requirements in this Ordinance, where the antenna is attached to the roof or sides of a building, an existing tower, a water tank, or a similar structure;
2. The following antenna are permitted under the provisions of this section:

- a. Omnidirectional or whip antenna no more than seven inches in diameter and extending no more than 10 feet above the structure to which they are attached; or
  - b. Panel or similar antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than 10 feet; or
3. Antenna and antenna array not on publicly-owned property shall not extend more than 10 feet above the highest point of the structure on which it is mounted. The antenna, antenna array, and its support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires, in all zones. The antenna, antenna array, and its support structure shall be a color that blends with the structure on which they are mounted.
  4. Setback from street: Unless there are unusual geographic limitations or other public policy considerations, as determined in the City's sole discretion, no such antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located.
  5. Guy wires restricted: No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except upon approval of a conditional use permit.

#### 7.11.12 *Inspection Requirements*

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EJA and FCC Standards and, within 60 days of the inspection, file a report with the City. Submission of a FCC required, and duly filed, safety inspection report, or the facility operator's maintenance reports for the prior 12 months in the event no FCC report is required for such year, to the City shall satisfy the requirements of this section.

#### 7.11.13 *Landscaping/Screening*

1. Landscaping.  
Landscaping, as described herein, shall be required to screen as much of the support structure as possible, the fence surrounding both the support structure and any other ground level features (such as a building), and in general soften the appearance of the cell site. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.
2. Screening.  
The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the City for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.
  - a. A row of evergreen trees a minimum of 10 feet tall at planting a maximum of six feet apart, or a row of deciduous or coniferous trees a minimum of 10 feet tall at planting a maximum of 15 feet to 25 feet apart shall be planted around the perimeter of the fence; or
  - b. A continuous hedge at least 36 inches high, or a five-gallon size shrub, at planting capable of growing to at least 48 inches in height within 18 months shall be planted around the perimeter of the tower and accessory structures.
3. Maintenance.  
In the event that landscaping is not maintained at the required level, the City, after giving 30 days advance written notice, may maintain or do the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

#### 7.11.14 *Non-Use/Abandonment*

1. Abandonment:  
In the event the use of any tower or antenna has been discontinued for a period of 60 consecutive days, the tower or antenna shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which "shall have the right to request documentation and/or affidavits from the tower or antenna owner/operator regarding the issue of tower or antenna usage. Upon such abandonment, the owner/operator of the tower or antenna or the owner of property upon

which such facility is located shall have an additional 60 days within which to:

- a. Reactivate the use of the tower or antenna or transfer the tower or antenna to another owner/operator who makes actual use of the tower or antenna; or
- b. In the event that abandonment as defined in this Ordinance occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the affected radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove that portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment; however, in the event that there is a physical reduction in height of substantially all of the providers' towers in the City, then all of such providers' towers within the City shall similarly be reduced in height.
- c. Dismantle and remove the tower or antenna. If such tower or antenna is not removed within said 60 days from the date of abandonment, the City may remove such tower or antenna, in accordance with applicable law, at the facility owner's and/or property owner's expense. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna.

At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the tower or antenna shall automatically expire.

#### 7.11.15 *Application Requirements*

In the course of reviewing any request for any approval required under this Ordinance, made by an applicant to provide personal wireless service or to install personal wireless service facilities, the Planning Commission or the City Council, as the case may be, shall act within a reasonable period of time after the request is duly filed with the City, taking into account the nature and scope of the request, and any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record. All applicants who wish to locate a wireless telecommunication antenna or tower in the City must submit to the City Clerk a completed application and detailed plan that complies with the submittal requirements of this Ordinance, the Zoning Code and other regulations and ordinances of the City along with other pertinent information requested by the City. Application submission for conditional use, variance, and building permit requests may utilize any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

1. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;
2. A current map and aerial as provided by the County Surveyor's office showing the location of the proposed tower;
3. Legal description of the parcel, if applicable;
4. Approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;
5. A landscape plan showing specific landscape materials;
6. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;
7. A notarized letter signed by the applicant stating the tower will comply with all EIA Standards and all applicable federal and state laws and regulations and the City Code including specifically FAA regulations;
8. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antenna for future users;
9. A notarized letter signed by the applicant stating that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;
10. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;
11. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;
12. A full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this Ordinance. The site plan shall not be required if the antenna is to be mounted on an existing structure;

13. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City;
14. This Ordinance shall apply to all applications which were filed prior to the effective date hereof and which have not been approved by the City Council as of the effective date of this Ordinance, and to applications filed thereafter.

#### 7.11.16 *Third Party Review*

The telecommunications providers use various methodologies and analysis tools, including geographically-based computer software, to determine the specific technical parameters of telecommunications services and facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, there may be a need for expert review by a third party of the technical data submitted by the telecommunications provider. The City Council or the Planning Commission may require such a technical review, to be paid for by the applicant for the telecommunications services or facilities. The selection of the third party expert shall be by mutual agreement between the applicant and City, such agreement not to be unreasonably withheld by either party. The expert review is intended to be a site-specific review of technical aspects of the telecommunications services or facilities and other matters as described herein with respect to potential interference issues, and not a subjective review of the site selection. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the City Council, Planning Commission, City Staff, or interested parties. Based on the results of the third party review, the City may require changes to the application for the telecommunications services, facilities and other matters as described herein that comply with the recommendations of the expert.

#### 7.11.17 *Conditional Use Permit Requirement*

Notwithstanding anything to the contrary contained herein, in all instances a Conditional Use Permit must be obtained with the affirmative vote of City Council before any radio, television, personal wireless services or facilities may be constructed or operated within the City or zoning jurisdiction.

#### 7.11.18 *Termination*

The City Council may, subject to applicable law, rescind any previously granted or pending City approval or lease necessary for the construction, installation or operation of telecommunications facilities if it determines that any one of the following conditions exist:

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
2. A user's frequency broadcast unreasonably interferes with other users of higher priority of use as set forth in Sec. 7.11.06, regardless of whether or not this interference was adequately predicted in the technical analysis; or
3. A user violates any of the standards in this Ordinance or the conditions of City approval, lease provisions with the City or other terms of authorization by the City.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide a reasonable opportunity for the user to either cure the alleged interference, violation or condition or address the City Council regarding the proposed action.

This procedure need not be followed in emergency situations.

Notwithstanding the above, the City Council reserves the right to deny, for any reason, the use of any or all City-owned property by any one or all applicants. Such denial shall be in writing and supported by substantial evidence contained in a written record.

### **Section 7.12 FENCES:**

7.12.01 No fence shall be constructed within the zoning jurisdiction of the City of Wahoo unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements:

1. The height limitation for fences shall be six feet above ground level except as provided herein.
2. A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed 48 inches in height.
3. A fence constructed within the portion of a side yard of a residential lot that lies in front of a line extending perpendicularly from the side lot line to the front corner of the structure that is closest to

- such side lot line, shall not exceed four feet in height, except that if the lot is located on a corner, as defined in Article 2 of this Ordinance, a fence constructed within a side yard along the side lot line which is adjacent to a street shall not exceed six feet in height.
4. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than eight (8) feet in height, said additional height may be approved through a Conditional Use Permit.
  5. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
  6. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.
- 7.12.02 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.
- 7.12.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 7.12.04 The use of barbed wire in the construction of any fence is prohibited except:
1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City Building Inspector before commencement of construction.
  2. Farm fencing constructed for agricultural purposes on parcels of land 20 acres or more in the Transitional Agricultural District.
- 7.12.05 All fences shall be maintained in good repair.
- 7.12.06 All fences shall be located inside the boundaries of the property upon which constructed except where two adjacent property owners pursuant to written agreement filed with the City agree to build one fence on the common lot line of adjacent side yards or back yards.
- 7.12.07 Electric Fences.  
No electric fence shall be constructed or maintained within the City of Wahoo or within its extraterritorial zoning jurisdiction except in TA-Transitional Agriculture District as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Building Inspector shall approve any electrified fencing, it shall be determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
- 7.12.08 Facing.  
The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
- 7.12.09 Fences in existence as of the date of adoption of this Ordinance.  
Any existing fence constructed pursuant to a permit issued and approved by the City of Wahoo which was in conformity with the past provisions and which was in place as of said date, may remain without change in accordance with this section notwithstanding same may be in conflict with one or more provisions of this section as amended; provided, however, that replacement or change of said existing fence or addition of a new fence, must meet the requirements of this section as amended.
- 7.12.10 Pool Enclosures  
The perimeter of all pools, spas, or hot tubs containing at least 24 inches of water must be enclosed at ground level by a barrier or fence with a minimum height of four feet and a maximum height of six feet. There shall be no opening in the fence that permits passage of an object of 4 inches in diameter or larger. All gates must have locking hardware to prevent access when not in use. Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions, except for normal construction tolerances and tooled masonry joints.



In addition to the above requirement, when the wall of a dwelling serves as part of the barrier, one of the following conditions shall also be met:

1. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; or
2. Doors with direct access to the pool through the wall of the dwelling shall be equipped with an audible alarm; or
3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable, so long as the degree of protection afforded is not less than the protection afforded by Item 1 and 2 above.
4. Where an above-ground pool structure is used as a barrier, or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:
  - a. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or
  - b. The ladder or steps shall be surrounded by a barrier or fence with locking hardware to prevent access when not in use.

The intent of this barrier requirement is to prevent the uncontrolled access to a pool or spa from adjacent properties, and from the home.

### **Section 7.13 Storage or parking of vehicles, boats, campers and trailers:**

7.13.01 Storage of boats, campers, recreational vehicles, or trailers in R-1, R-2, R-3, NRC and LLR zoning districts is permitted under the following conditions:

1. Said vehicle is owned by the resident of the residential property where the vehicle is parked for storage;
2. Said vehicle may be parked inside an enclosed structure when the structure conforms to the zoning requirements of the district in which it is located;
3. Said vehicles may be parked outside of an enclosed structure in the side yard or rear yard of the property;
4. Said vehicles may be parked in the required front yard on a concrete driveway or its equivalent during loading or unloading, preparation for use, or to accommodate temporary guests or visitors;
5. No part of said vehicle shall extend over the public sidewalk or the public right-of-way;
6. Said boats, campers and trailers together with accessory structures shall not occupy more than thirty-five percent of the required rear yard;
7. Said vehicles shall not be used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use;
8. Said vehicles shall not be permanently connected to sewer lines, water lines, or electricity. A recreational vehicle may be connected to electricity or water temporarily to prepare the vehicle for use.
9. Said vehicles shall not be used for dwelling purposes except to accommodate temporary guests or visitors for no more than 14 days.

### **Section 7.14 Performance Standards for Industrial Uses**

7.14.01 **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

7.14.02 **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Wahoo.

7.14.03 **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.

7.14.04 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

7.14.05 **Air Contaminants:**

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
2. Particulate mater of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of 0.2 grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed 0.6 grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, 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 of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odor as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these Regulations.
5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
6. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of 0.003 of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
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 zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

**Section 7.15 Landscaping Requirements:**

7.15.01 *Intent:*

The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of Wahoo by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with then provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

7.15.02 *Application and Scope:*

The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

1. Agricultural buildings, structures and uses.
2. Replacement of lawfully existing structures or uses.
3. Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking of less than 4,000 square feet shall not be excepted. Where such enlargement is

less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.

4. Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.
5. When a lot or site with more than one ownership has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City Council with the recommendation of the City Planning Commission.

#### 7.15.03 Landscaping Requirements:

Landscaping shall be required and provided as follows:

1. Single-family and two-family dwellings shall provide and maintain a minimum of 30 percent of lot area as a permeable and uncovered surface that contains living material. Single-family and two-family dwellings shall be exempt from all other requirements of this section except for Plant Material and Maintenance.
2. Street Frontage:  
A landscaped area having a minimum depth of 15 feet from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.
  - a. The required landscaped area 15 feet may be reduced to 10 feet if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
  - b. Exclusive of driveways and sidewalks not more than 25 percent of the surface of the landscaped area shall have inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.
  - c. A minimum of one tree shall be planted for every 40 lineal feet or fraction thereof.
3. Side Yard:  
A landscaped area having a minimum depth of 10 feet from the property line shall be provided along the side yard abutting any Residential District.
  - a. Exclusive of driveways and sidewalks, not more than 10 percent of the surface of the landscaped area shall be inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf. If the slope of ground within the landscape area exceeds 2:1, not more than 50 percent of the surface shall be inorganic material.
  - b. Landscaping shall include a hedge screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet within four years. A landscaped earth berm not exceeding six feet in height may be used in combination with the plant materials.
  - c. A solid wood and/or masonry fence or wall six feet in height may be used in lieu of or in combination with the plant materials required, provided that such fence is at least five feet from the property line.
4. Rear Yard:  
A landscaped area having a minimum depth of 10 feet from the property line shall be provided along the rear yard abutting any Residential District.
  - a. The landscape requirements for the rear yard shall be the same as for the side yard described in section 7.15.04 (3)
5. Off-Site Parking Lots:  
Parking lots not located on the property where the use served is located, shall conform to this section provided that a parking lot with an area of 4,000 square feet or less shall be exempt from the requirements of this section.
6. Parking Area Interior Landscaping:  
Off-street parking lots, as defined in 7.17.04 (5), and other vehicular use areas shall have at least 10 square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections of this Ordinance, and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such perimeter.

The front of a vehicle may encroach upon any interior landscaped area when said area is at least four feet in depth per abutting parking space and protected by curbing. Two feet of said landscaped area may be part of the required depth of each abutting parking space. No more than two drive aisles

shall be placed parallel to one another without an intervening planter aisle of at least four feet in width; eight feet is required if parking spaces overlap the curbs of the aisle.

7. **Perimeter Landscaping:**  
All commercial office and industrial developments, buildings, or additions thereto shall provide perimeter landscaping to include one tree for each 40 lineal feet or fraction thereof. Such landscaped area shall consist of sufficient area for the species of tree to be planted. Other perimeter landscaping shall require approval of the Planning Commission and City Council.
8. **Plant Materials:**  
Landscape living plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.
  - a. The plant nomenclature shall conform with the recommendations and requirements of the “American Standard for Nursery Stock”, as amended, published by the American Association of Nurserymen, Inc.
  - b. **Size.** The minimum size of plant materials to be installed shall be as follows:
    - (1) Deciduous trees having a mature height of 20 feet or less shall have a minimum caliper of one and one-fourth inches.
    - (2) Deciduous trees having a mature height of more than 20 feet shall have a minimum caliper of one and one-half inches.
    - (3) Evergreen (conifer) trees shall have a minimum height of three feet.
    - (4) Deciduous shrubs shall have a minimum height of 18 inches.
    - (5) Evergreen shrubs shall have a minimum spread of 18 inches.
9. **Planting Schedule:**  
The plant materials shall be installed prior to the issuance of the certificate of occupancy. If, because of seasonal reasons, the landscaping cannot be installed, a surety satisfactory to the City of Wahoo equal to the contract cost shall be submitted to the City. The City shall release the surety when the plant materials have been installed. If the plant materials have not been installed within 12 months of the effective date of the certificate of occupancy, the City may install the required landscaping.
10. **Required Plans:**  
Upon application of a building permit, a landscape-planting plan shall be submitted to the City of Wahoo for review and approval.
  - a. Three copies of the plan shall be submitted.
  - b. The plan shall include, but not be limited to, the following:
    - (1) Property lines and other physical features necessary to show the proposed installation of plants.
    - (2) The location and spacing of plant materials.
    - (3) The scientific name, common name, plant size, quantity and planting method.
    - (4) The plan shall have a scale of not more than one-inch equals 100 feet.
    - (5) When necessary, existing and proposed contours shall be provided.

#### **7.15.04 Screening Requirements**

1. All parking areas or vehicular use areas abutting a residential district or public right-of-way shall be screened from grade level to a height not less than three feet.
2. All commercial and industrial uses that abut residential or office districts shall provide screening not less than six feet in height along the abutting property line(s).
3. Screening required by this section shall be equivalent to the following:
  - a. Solid fences or walls as approved by the Planning Commission on the final development plan.
  - b. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within three years after planting.
  - c. Berms of not less than three feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.17.04 (3a) above.
  - d. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid enclosure six-foot in height around each unit. Said enclosure shall be of complementary materials suitable to the Planning Commission.

- e. All plant material used for screening shall meet the standards in section 7.15.03

#### **7.15.05 Installation and Maintenance of Landscaping and Screening:**

1. **Installation:**  
All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. A qualified code enforcement officer or other planning official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Building Official.
2. **Maintenance:**  
The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement. Underground sprinkler systems shall be provided to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Planning Commission.

All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

#### **7.15.06 Preliminary Plan Approval**

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, preliminary RMD, or preliminary site plan for development, for review and recommendation by the Planning Commission and approval by the City Council. Said Plan shall be in sufficient detail to provide the Commission and City Council with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

#### **7.15.07 Final Plan Approval**

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning Commission on separate sheets for review and recommendation and approval by the City Council along with a planting schedule at final development plan submission.

#### **7.15.08 Parking Lot Plan Approval**

A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

1. New construction.
2. Expansion of existing facilities.
3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.
4. No parking lot shall be exempted from these regulations; unless previously exempted.

### **Section 7.16 Wind Energy Systems**

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

- 7.16.01 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five rotor distances figured by the size of the largest rotor.
- 7.16.02 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
- 7.16.03 The wind energy system operation shall not encroach on airport hazard areas as depicted in the Nebraska Department of Aeronautics (NDA) zoning map for Wahoo Municipal Airport.

- 7.16.04 To limit climbing access to the tower, a fence six feet high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than 12 feet from the ground, or the tower may be mounted on a roof top.
- 7.16.05 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

**7.16.05 SETBACK TABLE**

<u>Rotor Diameter</u>	<u>Setback Distance</u>	<u>Minimum Lot Area<sup>1</sup></u>
5 feet	100 feet	1 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres
35 feet	365 feet	12.25 Acres

<sup>1</sup> Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.

- 7.16.06 Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.<sup>1</sup>
- 7.16.07 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

**Section 7.17 Sand and Gravel Mineral, Stone, Rock, and Soil Extraction and Quarries**

- 7.17.01 The application shall include a grading map showing contours, proposed excavation contours, and proposed final grade contours.
- 7.17.02 The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
- 7.17.03 The application shall identify proposed vehicle and equipment storage areas;
- 7.17.04 Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land;
- 7.17.05 The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility;
- 7.17.06 Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
- 7.17.07 Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
- 7.17.08 Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

**Section 7.18 Waste Disposal Sites and Landfills**

A Conditional Use Permit may be granted for any waste material disposal, garbage disposal, or land fill operations in the designated zoning district; provided the following special conditions shall be considered:

- 7.18.01 The effects on the adjacent property, traffic, and
- 7.18.02 The public necessity and advantage
- 7.18.03 The maintenance of access routes related to all weather conditions and dropping of rubbish and litter
- 7.18.04 The effects on underground water quality
- 7.18.05 The immediate and long term effects on the environment and the public
- 7.18.06 The concerns for public safety
- 7.18.07 The application shall include documents to indicate conformance to all applicable governmental regulations and standards

<sup>1</sup> U.S. Department of Energy – EPRI Wind Turbine Verification Program  
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304

- 7.18.08 The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

### **Section 7.19 Schools**

The following guidelines shall apply to schools regardless if the use is permitted or requires a conditional use permit:

- 7.19.01 Nursery schools shall provide and thereafter maintain outdoor play areas with a minimum area of 100 square feet per child of total capacity. A sight-obscuring fence at least four feet but not more than six feet in height shall be provided separating the play area from abutting properties.
- 7.19.02 Elementary schools shall provide one acre of site area for each 90 pupils or one acre for each three classrooms, whichever is greater.
- 7.19.03 Intermediate schools shall provide one acre of site area for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.

### **Section 7.20 Utility Substation or Pumping Station**

The following criteria shall be met for any utility substation or pumping station regardless if the use is permitted or requires a conditional use permit:

- 7.20.01 The minimum lot size of the district in which a public utility facility is to be located may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property.
- 7.20.02 No equipment storage shall be permitted on the site in a residential district or in a C-1 District.
- 7.20.03 Such uses shall be fenced and landscaped as determined.

### **Section 7.21 Junk Yards or Salvage Yards**

Junk Yards and salvage of materials may be allowed by conditional use permit in the (I-2) Heavy Industrial District; provided the following minimum conditions are met (additional conditions may be required depending upon the operation and the proposed location:

- 7.21.01 Construction and operation shall comply with the Wahoo Municipal Code and any other applicable codes or requirements.
- 7.21.02 Receiving areas for junk or salvage material shall be designed to avoid the depositing of junk or salvage material outside a building or outside screened (solid fence) storage areas.
- 7.21.03 Junk yards and salvage of materials shall contain a minimum of two acres and shall not be located within a designated 100-year floodplain area as identified by the Corps of Engineers.
- 7.21.04 Junk or salvage material kept outside a building or buildings shall not be located closer than 500 feet from any designated State or Federal highway. Or locally designated Expressway, Major Arterial, and Other Arterial as per the State of Nebraska Department of Roads or subsequent successor agency.
- 7.21.05 Junk material kept outside a building or buildings shall not be located in the required front yard.
- 7.21.06 Junk or salvage material kept outside a building or buildings shall be at least 100 feet from the boundaries of the I-1 zoning district and shall be at least 500 feet from the any residential district or use.

### **Section 7.22 Townhouses**

Townhouses shall be subject to the following criteria regardless if the use is permitted or requires a conditional use permit:

- 7.22.01 The common wall between attached units shall be on the side lot line separating the lots and shall not be subject to side yard requirements providing there are no doors, windows, vents or other openings in the common wall.
- 7.22.02 No unit shall have a depth greater than three times its width.
- 7.22.03 Any exterior wall which is not a common wall must meet all yard requirements.
- 7.22.04 Each lot must have direct access to a public street.
- 7.22.05 The deed to each lot must include covenants requiring the proper and timely reconstruction of any damaged or destroyed dwellings.
- 7.22.06 The application for said use must include a plot plan with general location of buildings, parking areas, driveways, fences, and other structures, the location of easements and utility lines, the number and type of all dwelling units, and the property lines within the proposed development.

### **Section 7.23 Preservation Guidelines**

Guidelines: (Based on the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings)

- 7.23.01 Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

- 7.23.02 The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- 7.23.03 All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- 7.23.04 Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- 7.23.05 Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
- 7.23.06 Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- 7.23.07 The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- 7.23.08 Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.
- 7.23.09 Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
- 7.23.10 Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

**Section 7.24 Guidelines for Applying the Secretary of the Interior’s Standards**

<b>A. THE ENVIRONMENT:</b>	
<i>Recommended</i>	<i>Not Recommended</i>
Retaining distinctive features such as the size, scale, mass, color, and materials of buildings, including roofs, porches, and stairways that give a neighborhood its distinguishing character.	Introducing new construction into neighborhoods that is incompatible with the character of the district because of size, scale, color, and materials.
Retaining landscape features such as parks, gardens, street lights, signs, benches, walkways, streets, alleys and building set-backs that have traditionally linked buildings to their environment.	Destroying the relationship of buildings and their environment by widening existing streets, changing paving materials, or by introducing inappropriately located new streets and parking lots that are incompatible with the character of the neighborhood.
Using new plant materials, fencing, walkways, street lights, signs, and benches that are compatible with the character of the neighborhood in size, scale, material and color.	Introducing signs, street lighting, benches, new plant materials, fencing, walkways and paving materials that are out of scale or inappropriate to the neighborhood.
<b>B. BUILDING SITE:</b>	
<i>Recommended</i>	<i>Not Recommended</i>
Identifying plants, trees, fencing, walkways, outbuildings, and other elements that might be an important part of the property’s history and development.	Making changes to the appearance of the site by removing old plants, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance in the property’s history and development.
Retaining plants, trees, fencing, walkways, street lights, signs, and benches that reflect the property’s history and development. Basing decisions for new site work on actual knowledge of the past appearance of the property found in photographs, drawings, newspapers, and tax records. If changes are made, they should be carefully evaluated in light of the past appearance of the site.	Leaving plant materials and trees in close proximity to the building that may cause deterioration of the historic fabric.
Providing proper site and roof drainage to assure that water does not splash against the building or foundation walls, nor drain toward the building.	



**C. BUILDING: STRUCTURAL SYSTEMS**

<i>Recommended</i>	<i>Not Recommended</i>
Recognizing the special problems inherent in the structural systems of historic buildings, especially where there are visible signs of cracking, deflection, or failure.	Disturbing existing foundations with new excavations that undermine the structural stability of the building.
Undertaking stabilization and repair weakening structural members and systems.	Leaving known structural problems untreated that will cause continuing deterioration and will shorten the life of the structure.
Replacing historically important structural members only when necessary. Supplementing existing structural systems when damaged or inadequate.	

**D. BUILDING: EXTERIOR FEATURES (Masonry: Adobe, brick, stone, terra cotta, concrete, stucco, and mortar)**

<i>Recommended</i>	<i>Not Recommended</i>
Retaining original masonry and mortar, whenever possible, without the application of any surface treatment.	Applying waterproof or water repellent coating or surface consolidation treatments unless required to solve a specific technical problem that has been studied and identified. Coating are frequently unnecessary, expensive, and can accelerate deterioration of the masonry.
Repointing only mortar joints where there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar joint.	Repointing mortar joints that do not need pointing. Using electric saws and hammers to remove mortar can seriously damage the adjacent brick.
Duplicating old mortar in composition, color, and texture.	
Duplicating old mortar in joint size, method of application, and joint profile.	Repointing with mortar joints of a differing size or joint profile, texture or color.
Repairing stucco with a stucco mixture that duplicates the original as closely as possible in appearance and texture.	Removing paint from masonry surfaces indiscriminately. This may subject the building to damage and change it appearance.
Cleaning masonry only when necessary to halt deterioration or to remove graffiti and stains and always with the gentlest method possible, such as low pressure water and soft natural bristle brushes.	Applying new material which is inappropriate or was unavailable when the building was constructed, such as artificial brick-siding, artificial cast stone or brick veneer.
Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.	Removing architectural features such as cornices, brackets, railings, windows architraves, and doorway pediments.
Replacing missing significant architectural features, such as cornices, brackets, railings, and shutters.	Repointing with mortar of high portland cement contact can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.
Retaining the original or early color and texture of masonry surfaces, including early signage, wherever possible. Brick or stone surfaces may have been painted or whitewashed for practical and aesthetic reasons	Sandblasting, including dry and wet grit and other abrasives, brick or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration. Using chemical cleaning products that would have an adverse chemical reaction with the masonry materials. I.e., acid on limestone or marble

**E. WOOD: CLAPBOARD, WEATHERBOARD, SHINGLES AND OTHER WOODEN SIDING**

<i>Recommended</i>	<i>Not Recommended</i>
Retaining and preserving important architectural features, whenever possible.	Removing architectural features such as siding, cornices, brackets, window architraves, and doorway pediments. These are, in most cases, an essential part of a building’s character and appearance that illustrates the continuity of growth and change.
	Resurfacing frame buildings with new material that is inappropriate or was unavailable when the building was constructed such as artificial stone, brick veneer, asbestos or asphalt shingles, and plastic or aluminum siding, Such material can also contribute to the deterioration of the structure from moisture and insects.

<b>F. ARCHITECTURAL METALS: CAST IRON, STEEL, PRESSED TIN, ALUMINUM, ZINC</b>	
<i>Recommended</i>	<i>Not Recommended</i>
Retaining original material, whenever possible.	Removing architectural features that are an essential part of a building's character and appearance, illustrating the continuity of growth and change.
Cleaning when necessary with the appropriate method. Metals should be cleaned by methods that do not abrade surface.	Exposing metals which were intended to be protected from the environment. Do not use cleaning methods which alter the color, texture, and tone of the metal.
<b>G. ROOFS AND ROOFING:</b>	
<i>Recommended</i>	<i>Not Recommended</i>
Preserving the original roof shape.	Changing the essential character of the roof by adding inappropriate features such as dormer windows, vents, or skylights.
Retaining the original roofing material, whenever possible.	Replacing deteriorated roof coverings with new materials that differ to such an extent from the old in composition, size, shape, color, and texture that the appearance of the building is altered.
Providing adequate roof drainage and insuring that the roof materials provide a weather-tight covering for the structure.	Stripping the roof of architectural features important to its character.
Replacing deteriorated roof coverings with new material that matches the old in composition, size, shape, color, and texture.	Applying new roofing material that is inappropriate to the style and period of the building and neighborhood.
Preserving or replacing, where necessary, all architectural features that give the roof its essential character, such as dormer windows, cupolas, cornices, brackets, chimneys, cresting, and weather vents.	
<b>H. WINDOWS AND DOORS:</b>	
<i>Recommended</i>	<i>Not Recommended</i>
Retaining and repairing existing window and door openings including window sash, glass, lintels, sills, architraves, shutters, doors, pediments, hoods, steps, and all hardware.	Introducing new window and door openings into the principal elevations, or enlarging or reducing window or door openings to fit new stock window sash or new stock door sizes
Duplicating the material, design, and the hardware of the older window sash and doors if new sash and doors are used.	Altering the size of window panes or sash. Such changes destroy the scale and proportion of the building.
Installing visually unobstructive storm windows and doors, where needed, that do not damage existing frames and that can be removed in the future.	Installing inappropriate new window or door features such as aluminum storm and screen window insulating glass combinations that require the removal of original windows and doors.
Using original doors and door hardware when they can be repaired and reused in the future.	Installing plastic, canvas, or metal strip awnings or fake shutters that detracts from the character and appearance of the building.
	Discarding original doors and door hardware when they can be repaired and reused in place.
<b>I. ENTRANCES, PORCHES, AND STEPS:</b>	
<i>Recommended</i>	<i>Not Recommended</i>
Retaining porches and steps that are appropriate to the building and its development. Porches or additions reflecting later architectural styles often important to the building's historical integrity and wherever possible, should be retained.	Removing or altering porches and steps that are appropriate to the building's development and style.
Repairing or replacing, where necessary, deteriorated architectural features of wood, iron, cast iron, terra cotta, tile, and brick.	Stripping porches and steps of original material and architectural features, such as handrails, balusters, columns, brackets, and roof decoration of wood, iron, cast iron, terra cotta, tile, and brick.
	Enclosing porches and steps in a manner that destroys their intended appearance.

**J. EXTERIOR FINISHES:**

<i>Recommended</i>	<i>Not Recommended</i>
Discovering the historic paint colors and finishes of the structure and repainting with those colors to illustrate the distinctive character of the property.	Removing paint and finishes down to the bare surface; strong paint strippers, whether chemical or mechanical can permanently damage the surface.
	Repainting with colors that cannot be documented through research and investigation to be appropriate to the building and the neighborhood.

**K. NEW CONSTRUCTION**

<i>Recommended</i>	<i>Not Recommended</i>
Keeping new additions and adjacent new construction to a minimum, making them compatible in scale, building materials, and texture.	Designing new work which is incompatible with the earlier building and the neighborhood in materials, size, scale, and texture.
Designing new work to be compatible in materials, size, scale, color and texture with the earlier building and the neighborhood.	Imitating an earlier style or period of architecture in new additions, except in rare cases where a contemporary design would detract from the architectural unity of an ensemble or group. Especially avoid imitating an earlier style of architecture in new additions that have a completely contemporary function such as a drive-in bank or garage.
Using contemporary designs compatible with the character and mood of the building or the neighborhood.	Adding new height to the building that changes the scale and character of the building. Addition in height should not be visible when viewing the principal facades.
Protecting architectural details and features that contribute to the character of the building.	Adding new floors or removing existing floors that destroy important architectural details, features and spaces of the building.
Placing television antenna and mechanical equipment, such as air conditioners, in an inconspicuous location.	Placing television antennae and mechanical equipment, such as air conditioners, where they can be seen from the street.

**L. MECHANICAL SYSTEMS: HEATING, AIR CONDITIONING, ELECTRICAL, PLUMBING, FIRE PROTECTION**

<i>Recommended</i>	<i>Not Recommended</i>
Installing necessary mechanical systems in areas and spaces that will require the least possible alteration to the structural integrity and physical appearance of the building.	Causing unnecessary damage to the plan, materials, and appearance of the building when installing mechanical systems.
Utilizing early mechanical systems, including plumbing and early lighting fixtures, where possible.	Attaching exterior electrical and telephone cables to the principal elevations of the building.
Installing the vertical runs of ducts, pipes, and cables in closets, service rooms, and wall cavities.	Installing the vertical runs of ducts, pipes, and cables in places where they will be a visual intrusion.
Insuring adequate ventilation of attics, crawlspaces, and cellars to prevent moisture problems.	Concealing or "making invisible" mechanical equipment in historic walls or ceilings. Frequently this concealment requires the removal of historic fabric.
Installing thermal insulation in attics and in unheated cellars and crawlspaces to conserve energy.	Installing "dropped" acoustical ceilings to hide mechanical equipment. This destroys the proportions and character of the rooms.
	Installing foam, glass fiber, or cellulose insulation into wall cavities of either wooden or masonry construction. This has been found to cause moisture problems when there is no adequate moisture barrier.

**Section 7.25 Commercial Cabin Campgrounds:** The purpose of this section is to provide opportunities for quality designed commercial cabin campgrounds that provide permanent cabins for use on a temporary basis. In order to create a desirable recreational environment and protect the public health, safety, and welfare, site plans are required for all new commercial cabin campgrounds. A commercial cabin campground shall meet the following regulations:

- a. Minimum lot size requirement: Parcel must be at least three (3) acres
- b. Accessory uses shall include:
  - i. Management headquarters
  - ii. Commercial uses exclusive to the commercial campground patrons only, and structures which are customarily incidental and subordinate to the operation of a commercial campground
- c. Prohibited uses and structures:
  - i. Mobile homes and mobile home parks
  - ii. Permanent residences, excluding the accessory use of a resident management structure
- d. Design standards for commercial cabin campground (entire premise):
  - i. Density: No more than six units per acre and a maximum footprint of 6,000 square feet per acre
  - ii. Access and location criteria – entrance/exit must be located along a public roadway
  - iii. Internal Roadways
    1. Surfacing – roads must be rock surfaced
    2. Erosion control plan required for the entire campground area. This must include runoff control
    3. Minimum width – All internal roadways shall have a minimum width of no less than fourteen (14) feet for one-way traffic and no less than eighteen (18) feet for two-way traffic.
  - iv. Water and Sewer – cabins must be connected to either city sewer and water or have a septic and well service approved by NDEQ
  - v. Parking – No overnight parking of recreational vehicles, fifth-wheel campers, self-contained campers shall be allowed on the premise.
  - vi. Lighting – Entrance/exit lighting at the public road is required.
- e. Design standards for camping cabin sites:
  - i. A camping cabin site must be designed so there is a minimum of twenty (20) feet between camping cabins.
  - ii. No storage sheds are permitted on an individual camping cabin site
  - iii. Camping cabin sites shall include a minimum of one (1) automobile vehicle parking space with minimum dimensions of ten (10) by twenty (20) feet.
  - iv. Each camping cabin site shall abut at least one internal roadway within the boundaries of the Campground. Ingress and egress to the camping cabin site shall be limited to an internal roadway.
  - vi. Fire pits – campfires shall only be permitted in designated fire pits.
  - vii. Camping cabin sites shall be set back at least twenty-five (25) feet from and stream bank.
- f. Design standards for cabins:
  - i. Each cabin shall be equipped with a full bathroom
  - ii. Each cabin shall have a minimum square footage of 400 square feet and a maximum of 4,000 square feet, with the maximum footprint of 2,000 square feet.
  - iii. Cabins shall comply with the Americans with Disabilities Act.

## **Section 7.26 Adult Establishments.**

### **7.26.01 Purpose and Intent**

It is the purpose of this section to regulate Adult Establishments to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of Adult Establishments within the city's jurisdiction. The provisions of these regulations have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene material.

### **7.26.02 Findings and Rationale**

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

*Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361(2003); *Village of Winslow v Sheets*, 261 Neb.203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in

Baltimore, MD,” Journal of Urban Health (2011); “Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis,” Crime & Delinquency (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; “Rural Hotspots: The Case of Adult Businesses,” 19 Criminal Justice Policy Review 153 (2008); “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; “Adult establishments: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McCleary and Weinstein; Do “Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998), the city finds:

1. Adult Establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
2. Adult Establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
3. Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. Additionally, the city’s interest in regulating Adult Establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the city. The city finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

### **7.26.02 Definitions**

As used in this section, the following terms shall have the meanings indicated:

**Adult Arcade:** shall mean a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, where a fee is charged to access the booths or rooms, and where minors are excluded from the booths or rooms by reason of age.

**Adult Bookstore:** shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment’s displayed merchandise consists of said items, or
2. At least 35% of the establishment’s revenues derive from the sale or rental, for any form of consideration, of said items, or
3. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items; or

4. The establishment maintains at least seven hundred fifty square feet (750 sq. ft.) of its floor area for the display, sale, and/or rental of said items.

**ADULT ESTABLISHMENT:** shall mean an “adult arcade,” an “adult bookstore,” an “adult motion picture theater,” a “semi-nude lounge,” or a “sex paraphernalia store.”

**ADULT MOTION PICTURE THEATER:** shall mean a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos characterized by their emphasis upon “specified sexual activities” or “specified anatomical areas” are regularly shown.

**Characterized By:** shall mean describing the essential character or quality of an item. As applied to adult establishments, no business shall be classified as an adult establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

**Employee of an Adult Establishment:** shall mean any person who works on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**Nudity or Nude Conduct:** shall mean the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**Operator of Adult Establishment:** shall mean any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner or part owner, of the business.

**Semi-Nude or Semi-Nudity:** shall mean the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**Semi-Nude Lounge:** shall mean a nightclub, juice bar, restaurant, bottle club, massage parlor, or similar commercial establishment that regularly offers live semi-nude conduct. No establishment shall avoid classification as a semi-nude lounge by offering nude conduct.

**Sexual Device:** shall mean any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**Sex Paraphernalia Store:** shall mean a commercial establishment where more than 100 sexual devices are regularly made available for sale or rental. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall or any establishment primarily dedicated to providing medical products.

**Specified Anatomical Areas:** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

**Specified Sexual Activities:** shall mean intercourse, oral copulation, masturbation or sodomy.

**Viewing Room:** shall mean the room or booth where a patron of an adult establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

### **7.26.03 Regulations**

1. No person shall establish, operate, or cause to be operated an adult establishment in Wahoo’s jurisdiction within:
  - A. 1,000 feet of another adult establishment;

- B. 500 feet of a business licensed to sell alcohol at the premises; or
  - C. 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
  - D. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
  3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
  4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
  5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
  6. No person shall possess alcoholic beverages on the premises of an adult establishment.
  7. No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult establishment.
  8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any other employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
  9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
    - A. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the City Zoning Officer a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
    - B. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
    - C. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
    - D. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
    - E. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:



- i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
  - ii. That specified sexual activity on the premises is prohibited.
  - iii. That the making of openings between viewing rooms is prohibited.
  - iv. That violators will be required to leave the premises.
  - v. That violations of these regulations are unlawful.
- F. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in e.i. through e.v. above.
- G. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- H. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- I. It shall be unlawful for a person having a duty under subsections 9.a. through 9.h above to knowingly or recklessly fail to fulfill that duty.
- J. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- K. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
- L. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
- 10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- 11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 7.26.03.

**Section 7.27 Granting of Waivers (Exceptions) and Conditions.**

In addition to exceptions contained in this Ordinance, the Planning Commission may recommend and the City Council may grant waivers for use of property from the provisions of this Ordinance, but only after determining that: 1) there are unique circumstances or conditions affecting the property that are not the result of actions by the requestor and/or property owner; 2) the waivers are necessary for the reasonable and acceptable use of the property in question; 3) the granting of waivers will not be detrimental to the public or injurious to adjacent and nearby properties.

This process is not intended to take the place of procedures under Article 6: Conditional Use Permits, or Article 8: Board of Adjustment.

**ARTICLE 8: BOARD OF ADJUSTMENT**

**Section 8.01 Members, Terms and Meetings.** Pursuant to Neb. Rev. Stat. §19-908 (R.R.S. 1997): The board of adjustment 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 to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only 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. 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 two hundred persons reside within such area. Thereafter, at all times, at least one member of the board of adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting 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 its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

**Section 8.02 Appeals to Board, Record of Appeal, Hearings and Stays.** As provided in Neb. Rev. Stat. §19-909 (R.R.S. 1997): 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 a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his 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 in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**Section 8.03 Powers and Jurisdiction on Appeal.** The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and
3. to grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional 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 Ordinance.

No such variance shall be authorized by the Board unless it finds that:

1. The strict application of the Ordinance would produce undue hardship;

2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) 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 Ordinance or to effect any variation in this Ordinance.

**Section 8.04 Appeals to District Court.** Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Section 19-912, Reissue Revised Statutes of 1943 (in full).

**ARTICLE 9: AMENDMENT**

**Section 9.01 Amendments.** Pursuant to Neb. Rev. Stat. §19-905 (R.R.S. 1997): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the City Council. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. 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 same and shall be so posted at least 10 days prior to the date of such hearing. 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. The provisions of this section in reference to notice shall not apply:

1. In the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or
2. in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

**Section 9.02 Planning Commission Review.** No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within 45 days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 9.02.01 At the time that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission, there shall be deposited the sum set in Article 4, Section 4.23 as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
- 9.02.02 An application for a change of district to a Light Industrial District shall contain a minimum area of 10,000 square feet. The area, if more than one parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- 9.02.03 The foregoing requirements in 9.02.02 shall not apply in the case of an extension of a Light Industrial District.

**Section 9.03 Zoning Administrator.** The provisions of this Ordinance shall be administered and enforced by a Zoning Enforcement Officer appointed by the City Council, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

**Section 9.04 Building Permits.** The following shall apply to all new construction and all applicable renovations and remodels within Wahoo's Zoning Jurisdiction:

- 9.04.01 It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a building permit for such work.
- 9.04.02 Issuance of a building permit. In applying to the Zoning Administrator for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Zoning Administrator shall issue a building permit for such excavation or

construction. If a building permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A building or zoning permit shall become void 12 months from the date of issuance unless substantial progress has been made by that date on the project described therein.

**Section 9.05 Certificate of Occupancy.** No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

**Section 9.06 Penalties.** Pursuant to Neb. Rev. Stat. §19-913 (R.R.S. 1997), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$100 for any one offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**Section 9.07 Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Neb. Rev. Stat. §§19-901 to 19-914 (R.R.S. 1997), or this Ordinance, or any regulation made pursuant to said sections, 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 said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

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**ARTICLE 10: COMPREHENSIVE PLAN RELATIONSHIP**

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

**ARTICLE 11: LEGAL STATUS PROVISIONS**

**Section 11.01 Separability.** Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**Section 11.02 Purpose of Catch Heads.** The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

**Section 11.03 Repeal of Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 11.04 Effective Date.** This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the Governing Body of Wahoo, Nebraska,

This 10th day of February, 2005.

(Seal)

ATTEST: /s/ Melissa M. Harrell  
(CITY CLERK)

/s/ Daryl Reitmajer  
(MAYOR)