
ZONING ORDINANCE

ASHLAND, NEBRASKA

(FINAL DRAFT – JUNE 2016)

ORDINANCE NO. _____

ADOPTED BY ASHLAND, NEBRASKA ON _____

Prepared By:



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ARTICLE 1: TITLE AND PURPOSE**Section 1.01 Title**

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Ashland, Nebraska, herein referred to as “this ordinance”, and shall repeal and replace the existing ordinance for the City of Ashland and all amendments thereto.

Section 1.02 Purpose and Intent

This ordinance has been made in accordance with the Ashland Comprehensive Plan to promote the health, safety, and general welfare of the community; to implement the goals, policies, and proposals of the Comprehensive Plan for the zoning jurisdiction; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to encourage the most productive use of urban land resources through promotion of compatible land use patterns; 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 regulate and restrict the location and use of buildings and uses of land within each district for residential, commercial, industrial and other purposes; to regulate and restrict height, number of stories and size of buildings; to regulate and restrict the percentage of the lot that may be occupied by buildings and other structures; to regulate the size of yards and open spaces; to guard against loss of life and damage to property due to flooding through protection of natural drainage features; to preserve features of historical significance; to promote the conservation of natural resources; to protect property values; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

Section 1.03 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

Section 1.04 Relationship to City Code

The use of buildings and land within the City of Ashland shall be subject to all applicable provisions of the City Code and other ordinances, as well as this Ordinance, whether or not those other provisions of the City Code are specifically cross-referenced in this Ordinance. Cross-reference to other provisions of the City Code found in this Ordinance are provided for the convenience of the reader; lack of a cross-reference should not be construed as an indication that other provisions of the City Code do not apply.

Section 1.05 Relationship to Comprehensive Plan

It is the intention of this Ordinance to implement the goals, principles, and objectives reflected in the Comprehensive Plan as adopted by the City. While the City reaffirms its commitment that the provisions of this Ordinance and any amendment made to this Ordinance shall conform to adopted planning policies, the City acknowledges its intent that neither this Ordinance nor any amendment of this Ordinance may be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan.

Section 1.06 Applicability of Prior Regulations

1. All violations of prior zoning or other regulations of the City, existing on the effective date of this Ordinance, shall continue to be violations and shall not be considered to be legal non-conforming situations under this Ordinance. The City shall have the same authority to secure civil remedies for violations of those regulations to the same extent that it may secure civil remedies for violations of this Ordinance.
2. All permits, applications, certificates and other authorizations submitted or approved prior to the effective date of this Code shall be governed by the regulations in effect at the time of the submission or approval.

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 and not discretionary; the word "may" is permissive and not compulsory.
- 2.01.04 The word "and" indicates all connected items, conditions, provisions, or events shall apply; the word "or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.
- 2.01.05 Words importing the masculine gender shall include the feminine and neutral genders.
- 2.01.06 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.
- 2.01.07 The word "commission" shall refer to the Planning Commission of Ashland, Nebraska.
- 2.01.08 The word "City" shall refer to the City of Ashland, Nebraska.
- 2.01.09 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
- 2.01.10 The particular controls the general.
- 2.01.11 All references to City personnel or staff shall include the person identified or their appropriate designee.
- 2.01.12 All words, terms, and phrases not otherwise defined herein shall be given their usual and customary meaning as defined in a standard English dictionary or other applicable City, State, or federal regulation, unless the context clearly indicates another meaning was intended.
- 2.01.13 Computation of Time: Unless otherwise specifically provided, the time within which an act is to be completed shall be computed by excluding the first day and including the last day, unless it is Sunday or a City holiday. All acts shall be completed within the time frame specified subject to extension periods provided herein.

Section 2.02 Abbreviation and Acronyms

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

ADA =	Americans with Disabilities Act
AU =	Animal Unit
CAFO =	Confined Animal Feeding Operation
DU =	Dwelling Unit
FAA =	Federal Aviation Administration
FCC =	Federal Communication Commission
FEMA =	Federal Emergency Management Agency
FT =	Foot or Feet
GFA =	Gross Floor Area
GIS =	Geographic Information System
HUD =	US Department of Housing and Urban Development
kV =	Kilovolt
kW =	Kilowatt
LFO =	Livestock Feeding Operation
NDA =	Nebraska Department of Aeronautics or successor department
NDEQ =	Nebraska Department of Environmental Quality or successor department
NPDES =	National Pollutant Discharge Elimination System
NRD =	Lower Platte South and/or North Natural Resources Districts
NSFM =	Nebraska State Fire Marshall or successor department
NHHS =	Nebraska Department of Health and Human Services or successor department
NDOR =	Nebraska Department of Roads or successor department
R.O.W. =	Right-of-Way or Rights-of-Way
SF =	Square Feet
SY =	Square Yard
USACE =	United States Army Corps of Engineers
USDA =	United States Department of Agriculture
YD =	Yard

Section 2.03 Definitions.

For the purpose of this Ordinance, certain words and terms are hereby defined as follows:

2.03.01 A

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.

ABUT, ABUTTING shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley. Two adjoining parcels of property, with a common property line, are herein considered as one parcel abutting the other. Except where two or more lots adjoin only at the corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures not less than 10 feet in a single direction.

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 ordinance.

ACCESSORY BUILDING (see Building, accessory)

ACCESSORY LIVING QUARTERS shall mean living quarters located 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.

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 USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building in size and use, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.



Example of an Accessory Use

ACREAGE shall mean any tract or parcel of land which does not qualify as a farm or development and has not been subdivided or platted.

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".

ADULT DAY CARE CENTER shall mean a facility that provides care and an array of social, medical, or other support services for a period of less than 24 consecutive hours to four or more persons who require or request such services due to age or functional impairment.

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. Also see Outdoor Advertising.

AESTHETIC ZONING shall mean the regulation of a building or site to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.

AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES shall mean any building or structure which is necessary or incidental to the normal conduct of an agricultural operation including but not limited to residence of the operator, residence of employees, 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.

AGRICULTURE shall mean the use of land for the purpose of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agriculture shall not mean the keeping of wild animals including species defined as zoo animals. Agricultural use shall not be construed to include any parcel of land of less than twenty (20) acres or any non-agricultural commercial or industrial development.

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.

AIRPORT HAZARD ZONE the area of land surrounding an airport in which structures and land uses have the potential to obstruct the airspace required for the flight of an aircraft in landing or taking off at the airport or may be otherwise hazardous to such landing or taking off. This area consists of the required approach zone, turning zone, and transition zones. The outer boundary of this area is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the approach and turning zones.

ALLEY shall mean a minor public service street or public right-of-way measuring 20 feet and not less than 16 feet 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 ordinance related to frontage on a dedicated street.

ALTERATION shall mean any change, addition or modification in construction or occupancy of an existing structure.

ALTERATION, STRUCTURAL (see Structural alteration)

AMATEUR RADIO shall mean radio equipment and associated antennas or support structures for the purpose of receiving or transmitting communications by a radio station as described in Section 153(g) of Title 47 of the CFR and which is operated under license by the FCC.

AMENDMENT shall mean a change in the wording, context, or substance of this ordinance, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

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.

AMUSEMENT PARK shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

ANIMAL HOSPITAL shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

ANIMAL UNIT shall mean a unit of measurement to compare various domestic animal types based upon equivalent waste generation. One animal unit equals the following:

- One A.U.= One Cow/Calf combination
- One A.U.= One Slaughter, Feeder Cattle;
- One A.U.= One Horse;
- One A.U.= Seven Tenths Mature Dairy Cattle;
- One A.U.= Two and One Half Swine (55 pounds or more);
- One A.U.= Twenty Five Weaned Pigs (less than 55 pounds);
- One A.U.= Two Sows with Litters;
- One A.U.= 10 Sheep;
- One A.U.= 100 Chickens;
- One A.U.= 50 Turkeys;
- One A.U.= Five Ducks.

ANIMALS, DOMESTIC (see Household pet)

ANIMALS, EXOTIC shall mean any animal except a household pet or livestock.

ANIMAL SPECIALTY SERVICES shall refer to establishments primarily engaged in pet grooming, clipping, bathing, daycare, training courses, obedience classes, and similar services; and does not include veterinary services or overnight boarding kennels.

ANTENNA shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna and Tower.)

ANTIQUÉ STORE 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, of belonging to the past, at least 30 years old.

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.)

APARTMENT HOUSE (see Dwelling, multi-family)

APPAREL SHOP shall mean retail stores where clothing is sold, such as department stores, shoe stores, and dress, hosiery, and millinery shops.

APPLIANCE STORE shall refer to retail shops selling equipment used for domestic functions. A store may include heavy appliances such as refrigerators, washers, dryers, ovens, dishwashers, or other similar domestic equipment. The store may also include smaller appliances such as televisions, computers, radios, microwaves, and other similar domestic equipment.

APPEARANCE shall mean the outward aspect visible to the public.

APPROPRIATE shall mean the sympathetic, or fitting, to the context of the site and the whole community.

APPURTENANCES shall mean the visible, functional objects accessory to and part of buildings.

ARCHITECTURAL CANOPY SIGN (see Sign, architectural canopy)

ARCHITECTURAL CHARACTER see Architectural Concept

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.

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.

ARCHITECTURAL STYLE shall mean the characteristic form and detail, as of buildings of a particular historic period.

AREA shall mean a piece of land capable of being described with such detail that its location may be established and boundaries definitely ascertained.

ART GALLERY shall mean an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries.

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.

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.

ASSEMBLY HALL shall mean a building or portion of a building in which facilities are provided for civic, educational, political, religious, or social purposes.

ASSISTED LIVING FACILITY shall mean any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

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.

ATTRACTIVE shall mean having qualities that arouse interest and pleasure in the observer.

AUCTION SALES shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes garage sales and motor vehicle wholesale sales, including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. Auction sales are limited to four sales per calendar year per property not to exceed two weeks per sale, unless otherwise provided for or allowed herein.

AUTOMATED TELLER MACHINE (ATM) shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

AUTOMOBILE SALES shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales includes all motor vehicle retail sales and leases including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Also, see Auction Sales)

AUTOMOTIVE REPAIR SERVICES shall refer to any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work; oil change and lubrication; major painting services; collision services; and tire service and sales.

AUTOMOBILE SERVICES shall refer to any building, structure, improvements or land used for the general maintenance of automobiles, motorcycles, trucks, trailers or similar vehicles including but not limited to washing, cleaning, and/or detailing; installation of car stereos, accessories, or other light equipment; and minor painting.

AUTOMOBILE WASH FACILITY shall mean a building, or portion thereof, containing facilities for the primary purpose of washing automobiles, using production line methods with a chain conveyor, blower, steam

cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by customer.

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.

2.03.02 **B**

BAKERY SHOP shall mean an establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site. A bakery shop shall be considered a general retail uses.

BALLROOM shall mean a place or hall used for dancing, but not any place listed under the definition of “Adult Establishments.” Ballrooms shall also be used for reunions, weddings and receptions.

BANK shall mean a freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

BAR shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)

BASEMENT shall mean that portion of a building or story having part but not more than one-half (1/2) of its story below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes other than by a domestic employee on the premises.

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.

BEAUTY SHOP shall mean any establishment where cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation.

BED and BREAKFAST shall mean a house, or portion thereof, other than a hotel or motel, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.

BEDROOM shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

BERM shall mean a raised form of earth to provide screening or to improve the aesthetic character.

BEST INTERESTS OF COMMUNITY shall mean interests of the community at large and not interest of the immediate neighborhood.

BIG BOX RETAIL shall mean a singular retail or wholesale user. These uses typically include: membership wholesale clubs emphasizing large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point sale concepts and department stores. Big box retail is a store having 40,000 square feet of gross floor area or more.

BILLBOARD see Sign, Billboard.

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.

BLOCK FRONTAGE shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.

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.

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.

BOOK STORE shall mean a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any uses defined as “adult entertainment establishments”.

BOWLING CENTER shall mean an establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing area. Accessory uses such as the retail sale of snacks, the retail sale of beverages, and video game arcade are customary.

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 sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

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.

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.

BREWERY, CRAFT shall mean a brew pub or a micro-brewery.

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.

BROADCASTING TOWER shall mean a structure for the transmission or broadcast of radio, television, radar, or a microwave which exceeds 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.

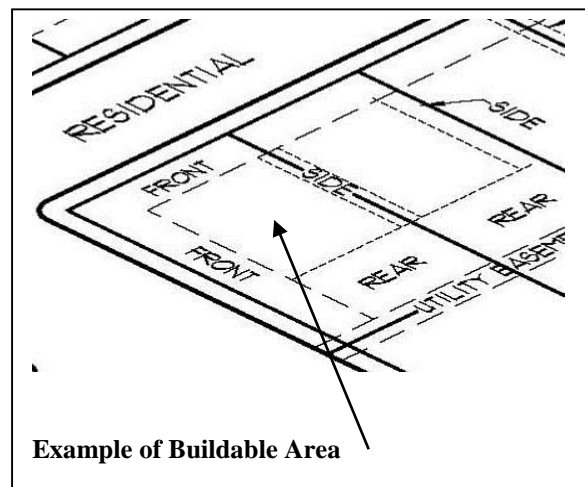
BUFFER shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening.)

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.

BUILDABLE AREA shall mean that part of a zoned lot not included within the required yards or subject to other restrictions herein required.

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 Temporary Structure. Trailers, with or without wheels, shall not be considered as buildings.

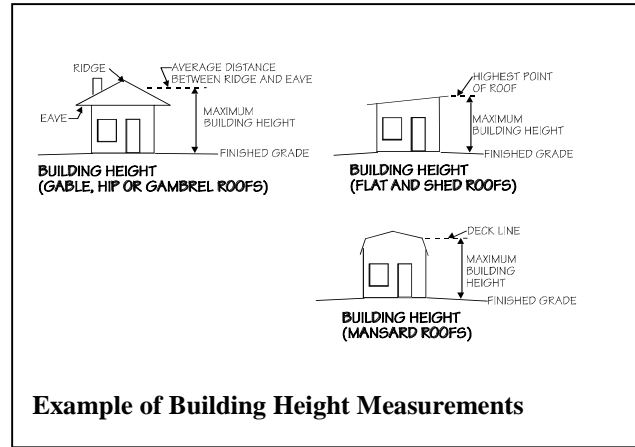
BUILDING, ACCESSORY shall mean any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.



BUILDING, AREA OF shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

BUILDING CODE shall mean the various codes adopted and enforced by the City that regulate construction and requires Building Permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work that pertain to building construction.

BUILDING HEIGHT shall mean the vertical distance measured from the average grade at the front face of the building 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 or hipped roof, except for accessory structures where such building height is measured above the average 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 5 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. Chimneys, spires, towers, elevator penthouses, tanks, or similar projections, other than signs, shall not be included in calculating the height.



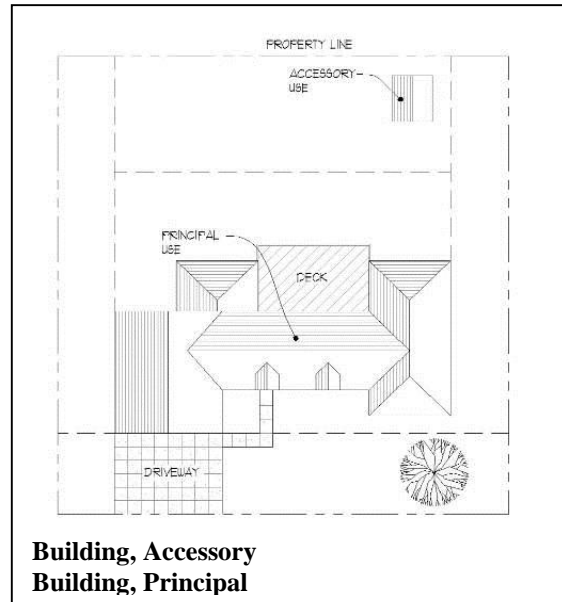
BUILDING INSPECTOR shall mean the Building Inspector of the City of Ashland, Nebraska.

BUILDING, PRINCIPAL shall mean a building within which the main or primary use of the lot or premises is located. (Also, see Use, Principal)

BUILDING SETBACK LINE shall mean the minimum of distance as prescribed by this ordinance between any property line and the closed point of the building line or face of any building or structure related thereto.

BUSINESS OR TRADE SCHOOL (See Vocational Training Facilities)

BUSINESS SERVICES shall mean establishments primarily engaged in rendering services to business establishments on a contract or fee basis, such as advertising, credit reporting, collection of claims, mailing, reproduction, stenographic, news syndicates, computer programming, photocopying, duplicating, data processing, services to buildings, and help supply services.



2.03.03 **C**

CAMPGROUND or CAMPSITE shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

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, not including semi-trailer tractors, buses, and commercial fleets.

CAR WASH, INDUSTRIAL shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

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.

CELLAR shall mean a building space having more than one-half of its height below the average adjoining grade lines.

CEMETERY shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.

CHANNEL shall mean the geographical area within either the natural or artificial banks of a watercourse or drainageway.

CHARITABLE ORGANIZATION or CLUB 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.

CHILD CARE CENTER shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools, preschool or educations for thirteen (13) or more children under age thirteen (13), at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall be determined as specified by the Nebraska Department of Health and Human Services license capacity and shall also meet all requirements of the State of Nebraska.

CHILD CARE HOME shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools, preschool or educations for twelve (12) or fewer children from families other than that of the provider. In addition to these regulations, Child Care Homes shall be determined as specified by the Nebraska Department of Health and Human Services license capacity and shall also meet all requirements of the State of Nebraska.

Family Child Care Home I shall mean an operation in the provider's place of residence which serves not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. Preschools licensed in the provider's place of residence and serving not more than 12 children may be considered a Family Child Care Home I. In addition to these regulations, Child Care Home I shall meet all requirements of the State of Nebraska.

Family Child Care Home II shall mean an operation in the provider's place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time, from families other than that of the provider. Preschools licensed at a location other than the provider's place of residence and serving not more than 12 children may be considered a Family Child Care Home II. In addition to these regulations, Child Care Home II shall meet all requirements of the State of Nebraska.

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.

CITY shall mean the City of Ashland.

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 Site Triangle.)

CLINIC, MEDICAL OR DENTAL shall mean an organization of specializing physicians and/or dentists who have their offices in a common building. A clinic shall not include in-patient care.

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.

CLUSTER DEVELOPMENT 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.

CODE shall mean the Municipal Code of the City of Ashland.

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

COHESIVENESS shall mean the unity of composition between design elements of a building and/or a group of buildings and the landscape development.

COLLEGE or UNIVERSITY shall mean facilities which conduct regular academic instruction at collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions shall confer degrees as a college or university for undergraduate or graduate standing, conduct research, or 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.

COMMISSION shall mean the Ashland Planning Commission.

COMMON AREA OR PROPERTY shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.

COMMUNICATION SERVICES shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities.

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.

COMMUNITY SANITARY SEWER SYSTEM shall mean an approved central sewer collecting system, meeting required standards, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

COMMUNITY WATER SUPPLY SYSTEM shall mean a public water supply system which serves at least 15 service connections used by year-round residents or uses, or regularly serves 25 or more year-round residents or uses.

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

COMPATIBLE USES shall mean a land use which 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.

COMPREHENSIVE PLAN shall mean the Comprehensive Plan of Ashland, 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 Section 19-903, R.R.S. 1997, as the same may, from time-to-time, be amended.

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. Conditional use shall also mean special use.

CONDITIONAL USE PERMIT shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of this ordinance and any additional conditions placed upon, or required by said permit. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to design, number, area, location or relation to the neighborhood, could contribute to the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district if specific provision for such special exception is made in this ordinance. Conditional use permit shall also mean special use permit.

CONDOMINIUM shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale. A condominium shall mean a multiple dwelling building as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each having an undivided interest in the common real estate.

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.

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.

CONSERVATION shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

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.

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.

CONSTRUCTION shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not limited to, clearing of land, earth moving, blasting and landscaping.

CONVENIENCE STORE shall mean a one-story, retail store containing less than 10,000 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 "Food Sales Limited and Food Sales General.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also, see self-service Station.)



Convenience Store

CONTIGUOUS shall mean the same as "Abut".

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.

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.

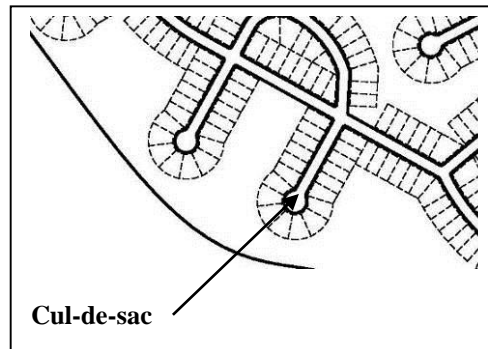
COURT, INNER shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

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.

COVERAGE shall mean the percentage of the lot covered by buildings and structures.

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

CURVED LOT see "Lot, Curved".



2.03.04 **D**

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

DEPARTMENT STORE see "Big Box Retail".

DETENTION BASIN shall mean a facility for the temporary storage of storm water runoff.

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.

DEVELOPMENT shall mean any unnatural 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. Also, shall mean any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a river, stream, lake, pond, woodland, wetland, endangered species habitat, aquifer or other resource area.

DEVELOPMENT CONCEPT PLAN shall mean a plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations. Includes lot lines, streets, building sites, reserved open space, building, major landscape features (both natural and man-made), and depending on requirements, the locations of proposed utility lines.

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

DISABILITY or HANDICAP shall mean the following but shall not include current, illegal use of or addiction to a controlled substance:

1. A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. A record of having such an impairment; or
3. Being regarded as having such impairment.

DOG KENNEL (See Kennel, commercial; and Kennel, private.)

DOMESTIC ANIMALS shall mean the same as household pet and shall not include any type of exotic animal listed in this ordinance.

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.

DRAINAGE shall mean the removal of surface water or groundwater from land by drains, grading, or other means that include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply, and the prevention or alleviation of flooding.

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.

DRIVE-IN FACILITY shall mean an establishment where customers can be served without leaving the confinement of their vehicle. If, in addition to the consumption of food or non-alcoholic beverages in automobiles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products with a completely enclosed structure, it shall be considered a drive-in facility. The term "drive-in facility" shall include, but is not limited to automobile service stations, auto laundries, drive-in restaurants, diners, luncheonettes, sandwich stands, snack shops, soda fountains or short order cafes, banks, and drive-in theaters.

DRIVEWAY shall mean any vehicular access to an off-street parking or loading facility.

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.

DUPLEX shall mean the same as "Dwelling, Two Family".

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

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 and is permanently attached and has a permanent foundation. See Dwelling, Single Family.

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 manufactured home in order to relocate it on another site in accordance to manufacturers recommendations.
2. Permanent Foundation: Based 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" below the final ground level.

DWELLING, MOBILE HOME shall mean 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. Each dwelling unit shall be at least eight feet in width and thirty-two feet in length, but two-family mobile homes may have less length than the required minimum if the required width is exceeded by an amount sufficient to provide an area of at least 500 square feet. Mobile homes shall meet all current HUD standards for mobile homes and shall have said sticker stating such is true. 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. A dwelling shall not be considered a mobile home if it meets the definition of a manufactured home dwelling, modular dwelling, and/or single family dwelling.

DWELLING, MODULAR (Is considered a conventional type single-family dwelling) Shall mean any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, those that do not meet the above criteria shall be considered a mobile home. See Dwelling, Single Family.

DWELLING, MULTI-FAMILY shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

DWELLING, SEASONAL shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

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 with no vertical metal panels;
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock, except that ribbed metal panels are permitted provided not white or silver in color;
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: continuous perimeter 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.



Multi-Family Dwelling



Example of Single-Family Attached

DWELLING, SINGLE-FAMILY (ATTACHED) shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an unpierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.

DWELLING, SINGLE-FAMILY (DETACHED) shall mean a dwelling which is entirely surrounded by open space on the same lot and is detached from another single-family dwelling.

DWELLING, TWO FAMILY shall mean a building containing two dwelling units and 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.

DWELLING, TOWN-HOUSE shall mean one of a group or row of not less than three nor more than 12 attached, single-family dwellings designed and built as a single structure facing upon a street or placed and in which the individual town-houses may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the town- or group of town-houses shall be considered as one building occupying a single lot.

DWELLING UNIT shall mean 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 complete cooking, toilet and sleeping facilities.

2.03.05 **E**

EASEMENT shall mean a space, lot, parcel, or area of land reserved for or used for public utilities or public or private uses.

EDUCATIONAL FACILITY 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.

EFFECTIVE DATE shall mean the date that this Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Ordinance as a result of such adoption or amendment.

ELEEMOSYNARY INSTITUTION shall mean any building or group of buildings devoted to and supported by charity.

ENCROACHMENT shall mean an advancement or intrusion beyond the lines or limits as designated and established by the ordinance, and to infringe or trespass into or upon the possession or right of others without permission.

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.

ERECTED shall mean constructed upon or moved onto a site.

ESCORT shall mean a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY shall mean a person, or commercial establishment, who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

EVENT CENTER shall mean all buildings and associated parking facilities which are kept, used, maintained, advertised, held out, or otherwise made available to private groups and/or the general public for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, secondhand merchandise sales and the like, and may include a banquet hall, private club or fraternal organization, but not including uses identified in Adult Establishment.

EXERCISE, FITNESS and TANNING SPA shall mean an establishment that provides exercise facilities for the purposes of running, jogging, aerobics, weight lifting, court sports, and/or swimming, as well as locker rooms, showers, massage rooms, tanning beds, hot tubs, saunas or other related accessory uses; however, excluding any uses defined as "adult entertainment establishments".

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.

EXTERIOR BUILDING COMPONENT shall mean an essential and visible part of the exterior of a building.

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.

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. First Class Cities may have up to a two-mile extraterritorial jurisdiction and Second Class Cities may have up to one mile of extraterritorial jurisdiction.

2.03.06 **F**

FACADE shall mean the exterior wall of a building exposed to public view from the building's exterior.

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.

FAMILY shall mean a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship; (2) three unrelated people; (3) three unrelated people and any children related to either of them; (4) group care home; or (5) group home for the handicapped. Family does not include any society, club, fraternity, sorority, association, lodge combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

FARM shall mean an area containing at least twenty (20) acres or more including that area occupied by the farm residence or agricultural buildings which is used for growing of the usual farm products such as vegetables, fruit, hay and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, any or all of which produces one thousand dollars (\$1,000) or more of farm products per year.

FARM ANIMALS or LIVESTOCK shall mean animals associated with agricultural operations, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

FARM BUILDING or STRUCTURE 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.

FARMER'S MARKET shall mean the offering for sale of fresh agricultural products directly to the consumer at an open air market designated as a community activity.

FARMSTEAD shall mean a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other farm building existed at the time of the adoption of this ordinance and is used for single-family resident purposes and agricultural purposes.

FARMING shall mean the growing of farm products such as grain, and their storage, as well as the raising thereon of the usual farm poultry and farm animals with the necessary accessory uses providing such accessory uses do not include the feeding of garbage or offal to swine or other animals. Farming shall not include the operation of a commercial feedlot or livestock feeding operation. In contrast to a commercial feedlot hereafter defined, any person operating within the following categories is conducting a farming operation and is not considered as operating a commercial feed lot unless he/she exceeds the following ratio as described below:

- A. One (1) animal unit per acre for a parcel of less than forty (40) acres;
- B. One and one-half (1 ½) animal units per acre for that portion of a parcel of land greater than forty (40) acres, but less than eighty (80) acres; and
- C. Two (2) animal units per acre for that portion of a parcel over eighty (80) acres.

FEEDLOT or FEED YARD, COMMERCIAL shall mean a lot, yard, corral or other area in where the business of feeding of livestock is independent or as an activity to the production of crops on the premises of which the

feedlot is a part. All such operation shall be conducted in conformance with all applicable state and federal regulations.

FENCE shall mean an enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including vehicles, machinery, equipment, buildings or hedges, shrubs, trees, or other natural growth. A fence shall include retaining walls over four feet in height.

FENCE, AGRICULTURAL shall mean an artificially erected barrier, other than a building, tires, vehicles or machinery, constructed of manmade material, or combination of manmade materials, erected to enclose an area of land used for agricultural purposes. An agricultural fence may be constructed of barbed or meshed wire.

FENCE, OPEN shall mean a fence, including gates, which has 50 percent or more of the surface area in open spaces which affords direct views through the fence.

FENCE, SEASONAL shall mean a temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting.

FENCE, SOLID shall mean any fence which does not qualify as an open fence.

FENCE, TEMPORARY shall mean a fence that is erected for construction purposes or for event security and is removed upon completion of the project or end of the event.

FESTIVAL shall mean the sale of ethnic specialty, regional, and gourmet foods, art and crafts, live musical entertainment, in an outdoor setting.

FIREWORKS STAND shall mean any portable or permanent building and/or structure used for the temporary retail sale and storage of fireworks and meets the requirements within the Municipal Code.

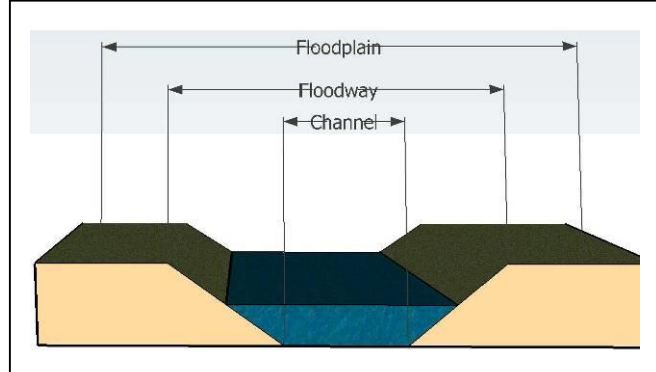
FIREWORKS STORAGE shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

FLOOD see Section 5.19 of this Ordinance.

FLOOD PLAIN see Section 5.19 of this Ordinance.

FLOODWAY see Section 5.19 of this Ordinance.

FLOOR AREA whenever the term "floor area" is used in this ordinance 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 but does not include storage space in a cellar or basement and does not include space used for the parking of automobiles. All horizontal dimensions shall be taken from the exterior faces of walls.



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.

1. **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.
2. **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.

FREESTANDING CANOPY shall mean a permanent, freestanding, unenclosed roof structure, typical of gas stations and financial institutions, designed to provide patrons shelter from the elements.

FRONTAGE shall mean that portion of a parcel of property which abuts a dedicated public street or highway measured along the property line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street. See also Lot Frontage and Street Frontage.

FUNERAL HOME OR FUNERAL CHAPEL shall mean a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

2.03.07 **G**

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.

GARAGE, PUBLIC shall mean any garage other than a private garage.

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.)

GARBAGE shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

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.

GRADE shall mean (a) For buildings having walls adjoining one street only, the elevation of the sidewalks at the center of the wall adjoining the street. (b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets. (c) For buildings having no wall adjoin the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street and where no sidewalk exists the sidewalk grade shall be established by the department of public works and utilities.

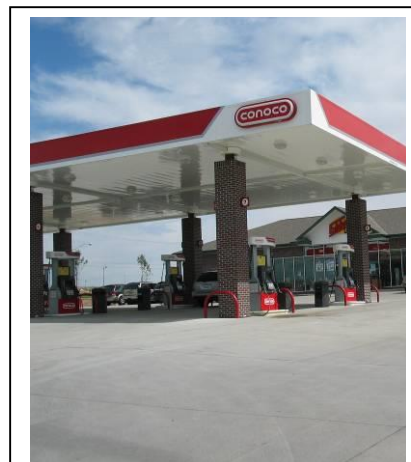
GRAPHIC ELEMENT shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

GREEN BUILDING shall mean structures that incorporate the principles of sustainable design in which the impact of a building on the environment will be minimal over the lifetime of that building. Green buildings incorporate principles of energy and resource efficiency, practical applications of waste reduction and pollution prevention, good indoor air quality and natural light to promote occupant health and productivity, and transportation efficiency in design and construction, during use and reuse. A building shall be considered “green” if it meets the requirements of the most current LEED certification criteria or any other nationally recognized green building certification program.

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.

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.

GROUND COVER shall mean plant material used in landscaping which remains less than 12 inches in height at maturity. (Also, see Landscaping.)



Freestanding Canopy

GROUND WATER shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials (whether created or natural) such that they may be considered saturated.

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. The term does not include any society, club, fraternity, sorority, association, lodge combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

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 that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.

GROUP HOUSING shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

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.

GUNSMITH shall mean a shop that designs, makes or repairs small firearms.

2.03.08 **H**

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.

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.

HARD SURFACED shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed and paved with either asphalt or concrete.

HARMONY shall mean a quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

HAZARDOUS WASTE/MATERIALS shall mean waste products of industrial or chemical processes including finished surplus, used, contaminated, or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

HEALTH CLUB shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

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.

HEAVY TRUCK OR TRAILER shall mean any vehicle or trailer that requires a Commercial Driver's License (CDL) to operate as stipulated by the Nebraska Department of Motor Vehicles Commercial Drivers Manual.

HEDGE shall mean a plant or series of plants, shrubs or other landscape vegetation, so arranged as to form a physical barrier or enclosure.

HOME IMPROVEMENT CENTER shall mean a facility of more than 40,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, lumber, paint and glass, housewares and household appliances, garden supplies, and cutlery.

HOME BUSINESS shall mean any “in-home” or “home based” business, industry or service (not including uses defined as Automobile Repair or Adult Entertainment Establishment) carried on by a member of the family residing on the premises, within a residential dwelling, or within an accessory structure in a residential zoning district. Home Businesses shall be secondary and incidental in nature to the primary residential structure and/or property. Home Businesses shall satisfy the standards set forth in Section 8.07 of the City Zoning Ordinance.

HOME OCCUPATION shall mean any occupation or activity (not including uses defined as Automobile Repair or Adult Entertainment Establishment) carried on by a member of the family residing on the premises, within a residential dwelling, or within an accessory structure in a residential zoning district. Home Occupations shall be secondary and incidental in nature to the primary residential structure and/or property. Home Occupations shall satisfy the standards set forth in Section 8.07 of the City Zoning Ordinance.

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.

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 for more than 20 persons 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.

HOUSE TRAILER (see Dwelling: Mobile Home)

HOUSEHOLD PET shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include domestic dogs, domestic cats, domestic tropical birds, fish, and rodents, such as gerbils and guinea pigs.

2.03.09 **I**

IMPERVIOUS SURFACE shall mean the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

IMPERVIOUS COVERAGE, MAXIMUM shall mean the percentage measured of a site that may be covered by buildings and other surfaces and development features which prevent the penetration of water into the ground (such as driveways, porches, parking lots, and other features). Limits on impervious coverage help control the velocity and quantity of storm-water runoff and provide for groundwater recharge.

INCIDENTAL USE shall mean a use, which is subordinate to the main use of a premise.

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.

INFILL DEVELOPMENT shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.

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, and fire protection have already been constructed or are provided.

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.

INSTITUTION shall mean a non-profit corporation or non-profit establishment for public use.

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.

INTENT AND PURPOSE shall mean that the Commission and Council by the adoption of this ordinance, 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.

2.03.10 **J**

JUICE BAR (See Semi-Nude Lounge.)

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.

JUNK YARD or SALVAGE 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 resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. A “junk” or “salvage” yard includes an auto wrecking yard, but does not include uses established and operated entirely within enclosed buildings.

2.03.11 **K**

KENNEL, BOARDING AND TRAINING shall mean any lot or premises on which four or more dogs or non-farm/non-domestic or any combination thereof, at least four months of age, are boarded, bred, or trained.

KENNEL, COMMERCIAL shall mean any lot or premises on which four or more dogs or non-farm/non-domestic or any combination thereof, at least six months of age, are groomed, bred, boarded, trained, or sold for a fee.

KENNEL, DOMESTIC shall mean the keeping, breeding, raising, fostering, showing or training of three dogs, over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective. Domestic kennels are subject to a kennel license, subject to Section 6-126 of the Municipal Code, and require a conditional use permit in specified districts. See definition of building, structure if is an accessory building that requires a permit and needs to meet setbacks for accessory building (open or closed).

2.03.12 **L**

LABORATORY shall mean a facility used for testing and analyzing medical and dental samples from off-site locations. Testing laboratories shall refer to soil and geotechnical research and analysis. Laboratories do not include human or animal research / testing facilities.

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 design criteria and regulations established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services.

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.

LANDSCAPE shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

LANDSCAPING shall include the original planting of suitable vegetation in conformity with the requirements of this ordinance and the continued maintenance thereof.

LAUNDRY SERVICE shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

LAWFUL shall mean not in conflict with any laws, ordinances, or statutes existing at the time of the enactment of this Ordinance.

LEED shall mean a professional credential that means Leadership in Energy and Environmental Design as administered and regulated by the United States Green Building Council.

LEED-ND shall mean a professional credential within the overall LEED program meaning Leadership in Energy and Environmental Design – Neighborhood Design as administered and regulated by United States Green Building Council.

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)

LIGHT CUT-OFF ANGLE shall mean an angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.

LIMITS OF GRADING shall mean the outermost edge of the area in which the existing topography is to be altered by excavation and/or filling.

LIVESTOCK shall mean animals associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

LOADING SPACE or LOADING BERTH 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. Such space shall have a minimum dimension of 12x45 feet and a vertical clearance of at least 15 feet.

LODGING ROOM shall mean a room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one “lodging room” for the purposes of this Ordinance.

LOGIC OF DESIGN shall mean accepted principles and criteria of validity in the solution of the problem of design.

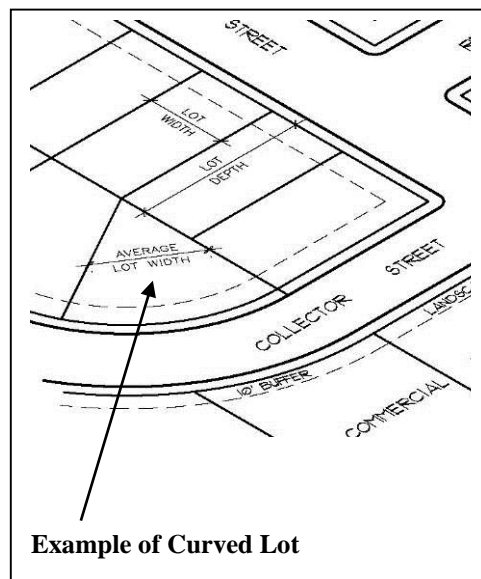
LONG-TERM CARE FACILITY shall mean a facility that provides the following services, as such are defined by state law: Nursing home facilities, boarding home, adult care home, assisted living facility, center for the developmentally disabled, group residence, swing bed.

LOT shall mean a parcel, lot, tract, or portions of lots of record which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the ordinance, 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 having frontage along at least one public street or right-of-way, permanent ingress/egress easement meeting city standards, or one private road.

LOT AREA shall mean the total area, on a horizontal plane, within the lot lines of a lot, but not including any area occupied by the waters of a lake or river.

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 front of such lot shall be the shortest of the two sides fronting on streets. The other yard shall be referred to as the street side yard. The street side yard setback may conform to existing setbacks of existing principal structures along that street, however in new developments (approved since 1998), the street side yard setback shall be equal to the front yard setback. See Yard, Front. See Municipal Code 8-301.

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.



LOT, CURVED 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.

LOT DEPTH shall mean the horizontal distance between the front and rear lot lines measured within the lot boundaries.

LOT, DOUBLE FRONTAGE shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot. On a double frontage lot, both street lines shall be deemed front lot lines.

LOT, FLAG shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

LOT FRONTAGE shall mean the side of a lot abutting on a legally accessible street/road right-of-way other than an alley or county road designated as minimum maintenance. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

LOT, INTERIOR shall mean a lot other than a corner lot.

LOT LINE shall mean the property line bounding a lot.

LOT LINE, FRONT shall mean the property line abutting a street, and where no public street exists, it shall be where line abuts to a public or private way as designated.

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

LOT LINE, SIDE shall mean any lot line not a front lot line or rear lot line.

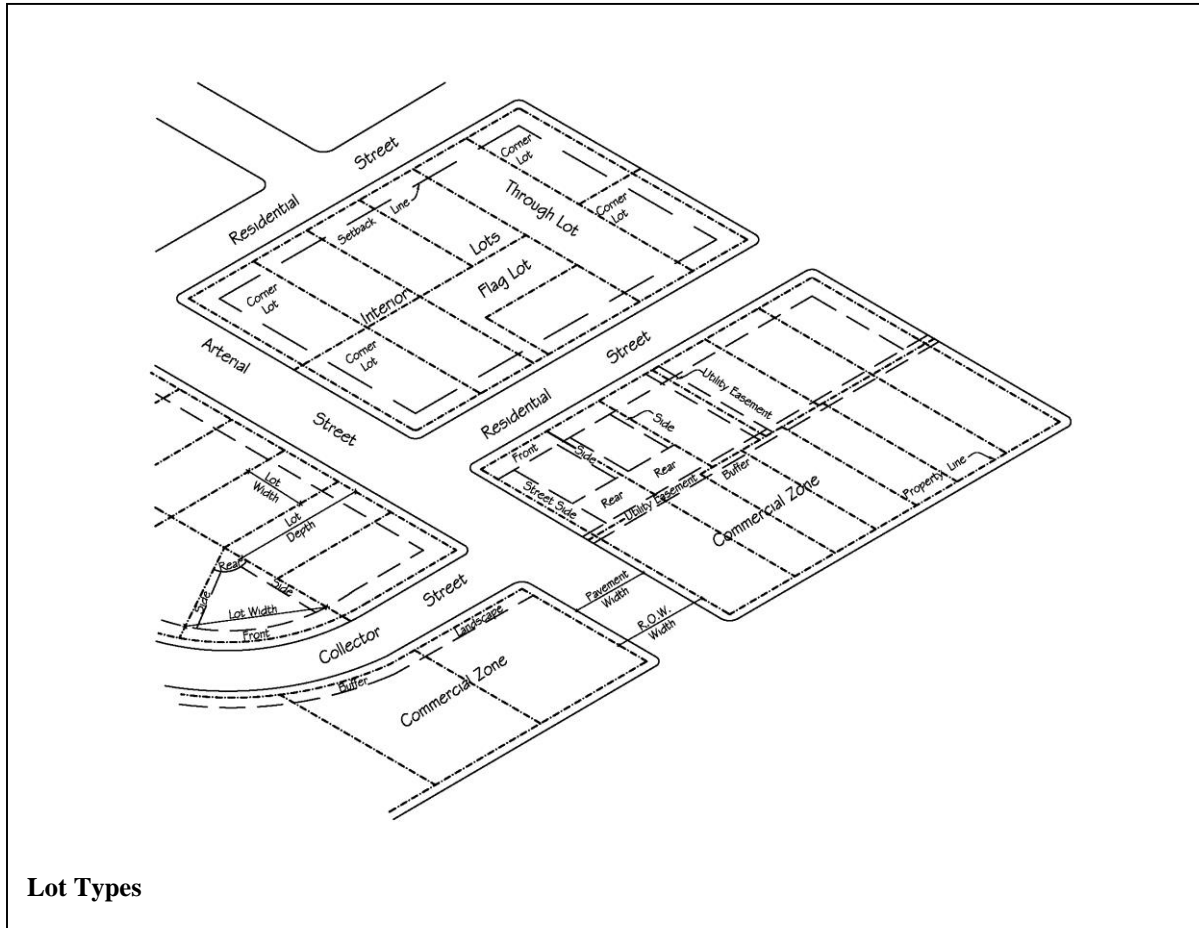
LOT, THROUGH shall mean a lot having frontage on two dedicated streets, not including a corner lot.

LOT OF RECORD shall mean a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.

LOT WIDTH shall mean the horizontal distance between the side lot lines, measured at the front yard setback line.

LOT, ZONING shall mean a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on the approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record and portions of lots of record, or of portions of record;
4. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.



2.03.13 **M**

MAIL ORDER SERVICES shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale.

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.

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.

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.

MANUFACTURING, LIGHT shall mean an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials.

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 Ashland City Council.

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 devices. Said establishment shall comply with all state regulations as per §71-1,278 through §71-1,283, Nebr. R.R.S., 1943

MASSAGE PARLOR (See Semi-Nude Lounge)

MASTER FEE SCHEDULE shall mean a fee schedule maintained by the City of Ashland and adopted, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

MECHANICAL EQUIPMENT shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

MEDICAL/DENTAL OFFICES shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only.

MEETING HALL shall mean a building designed for public assembly.

MICROBREWERY (See Brew Pub)

MINI-STORAGE OR MINI-WAREHOUSE (See Self-Service Storage Facility.)

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.

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.

MOBILE HOME (See Dwelling, Mobile Home)

MOBILE HOME PARK (See Manufactured Home Park.)

MOBILE HOME SUBDIVISION (See Manufactured Home Subdivision.)

MONOTONY shall mean repetitive sameness, lacking variety and variation, and/or reiteration.

MORTUARY shall mean an establishment in which the deceased are prepared for burial or cremation. The facility may include funeral services and spaces for informal gatherings or display of funeral equipment. This classification excludes cemeteries and crematories.

MOTEL, MOTOR COURT, LODGE, or INN Shall mean the same as Hotel except it is designed to accommodate any number of guests, the building or buildings are designed primarily to serve tourists traveling by automobile, and ingress or egress to rooms need not be through a lobby or office.

MOTOR VEHICLE shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

2.03.14 **N**

NEBRASKA REVISED REISSUED STATUTES, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

NEWSSTAND shall mean a temporary structure manned by a vendor, whom sells newspapers, magazines and other periodicals.

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.)

NON-COMMUNITY WATER SUPPLY SYSTEM shall mean any public water supply system that is not a community water supply system.

NON-CONFORMING BUILDING or STRUCTURE shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

NON-CONFORMING LOT 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 Register 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 this ordinance

NON-CONFORMING USE shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

NON-FARM BUILDINGS are all buildings except those buildings utilized for agricultural purposes on a farm or farmstead of twenty acres or more which produces one thousand dollars (\$1,000) or more of farm products each year.

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.

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.

NURSERY SCHOOL see Preschool

2.03.15 **O**

OFFICE shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

OFFICE PARK shall mean a development which contains a number of separate office buildings, accessory and supporting uses, and open space all designed, planned, constructed, and maintained on a coordinated basis.

OFFICIAL MAP (See Map, Official Zoning District.)

OFF-STREET PARKING AREA or VEHICULAR USE AREA 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.

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.

OPEN SPACE shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for yards, parks, landscaped green area, recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

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.

OUTLOT shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no building permit shall be issued for any private structures, except signs.

OUTDOOR ADVERTISING shall include the definitions of "Advertising Structure" and "Sign".

OUTDOOR STORAGE shall mean the storage of any material for a period greater than 72 hours not in an enclosed building, including items for sale, lease, processing, and repair, including motor vehicles.

OUTDOOR STORAGE CONTAINER shall mean a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement. The container must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, electricity, plumbing, or other mechanical systems as part of its assembly or use.

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.

OWNER shall mean one or more persons, including corporations, who have title to the property, building or structure in question.

2.03.16 **P**

PAINTBALL shall mean all guns and other devices used for the purpose of firing pellets containing a latex paint at a person or target.

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.

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.

PARK shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING LOT Shall mean an area consisting of one or more parking spaces for motor vehicles together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for motor vehicles. See Parking Area.

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.

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.

PARKING SPACE, AUTOMOBILE shall mean an area, enclosed or unenclosed, other than a street or alley, reserved for the parking of an automobile, such space having sufficient size, plus such additional area as is necessary to afford adequate ingress and egress.

PARKWAY shall mean an arterial or collector roadway with full or partial control of access, and located within a park or ribbon of park like development.

PERFORMANCE GUARANTEE shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

PERMANENT FOUNDATION shall mean a base constructed from either poured concrete or laid masonry rock or brick 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.

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.

PERMITTED USE shall mean any land use allowed without condition within a zoning district.

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 Ashland, Nebraska.

PET HEALTH SERVICE (See Animal Hospital)

PET SHOP shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry.

PINBALL or VIDEO GAMES BUSINESS (See Amusement Arcade)

PLANNED UNIT 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.

PLANNING COMMISSION shall mean the Planning Commission of Ashland, Nebraska.

PLANT MATERIALS shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.

PLAT shall mean a map showing the location, boundaries, and legal description of individual properties.

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.

POSTAL STATION shall mean a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

POULTRY shall mean domestic fowl, chickens, ducks, geese, and similar fowl, but specifically excluding turkeys and guinea fowl.

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.

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.

PRINCIPAL BUILDING (see “Building, Principal”)

PRINCIPAL USE (see “Use, Principal”)

PROFESSIONAL SERVICES Shall mean services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, architects, engineers, surveyors, planners, lawyers, and accountants.

PROHIBITED USE shall mean any use of land, other than non-conforming, which is not listed as a permitted use or conditional use within a zoning district.

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.

PROPORTION shall mean a balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.

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.

PUBLIC FACILITY shall mean any building, location, or structure, owned by a public entity such as a library, fire station, school, park, and other similar facilities and uses.

PUBLIC SERVICES/USE shall mean a specified activity or area that either through actual public ownership or through dedication of easements allows the general public access and use.

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.

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.

PUBLIC WAY Shall mean any sidewalk, street, alley, highway, easement, or other public thoroughfare.

2.03.17 **Q**

QUARRY shall mean an open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed or used for commercial purposes.

2.03.18 **R**

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.

RECREATIONAL ESTABLISHMENT (See Recreational Facility)

RECREATIONAL FACILITY shall mean public or private 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, amphitheatres, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

RECREATIONAL VEHICLE (RV) shall mean a vehicular unit less than three hundred eighty (380) square feet, forty (40) feet in overall length, eight (8) feet in width, or twelve (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.

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.

RECYCLING FACILITY shall mean any location where the primary use is where scrap or recyclable materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled, or handled, including, but not limited to, scrap metals, paper, rags, tires, bottles and other materials.

REDEVELOPMENT shall mean the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purpose of a new use or building.

RE-INSPECTION FEE shall mean any fee charged for an inspection other than the initial inspection when required work has not or was not completed and results in additional trips to the site by the inspector or agent of the City.

RESERVATION CENTER shall mean a travel agency; or other such agency involved in selling and arranging transportation, tours, trips, and accommodations for tourists.

RESIDENCE shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.

RESIDENTIAL AREA shall mean those parcels/areas currently be used as a residential use (whether legal conforming or legal non-conforming) and/or those designated as residential in the future land use plan of the city's comprehensive plan.

REST HOME, NURSING HOME or CONVALESCENT HOME shall mean a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such facility does not contain equipment for surgical care or for the treatment of disease or injury, and is subject to applicable state requirements.

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.

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.

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.

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, drive-thru or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.

RETAIL, BIG BOX (see Big Box Retail)

RETAIL TRADE or USE 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.

RETENTION BASIN shall mean a pond, pool, or basin used for the permanent storage of storm water runoff.

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.

REZONING shall mean an amendment to or change in the zoning regulations either to the text or map or both.

REZONING, PIECEMEAL shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

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 of vehicles or pedestrians or both.

ROAD shall mean the same as "Street".

ROAD, PRIVATE shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties not to exceed more than four lots served by such road. (Also, see right-of-way and Street.)

ROAD, PUBLIC shall mean a public right-of-way reserved or dedicated for street or road traffic. (Also, see right-of-way and Street.)

ROADSIDE STAND shall mean a structure for the display and sale of products on a temporary or seasonal basis.

ROOM shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.



2.03.19 S

SALVAGE YARD shall mean businesses engaged in the storage, collection, purchase, sale, salvage, or disposal of machinery, parts and equipment that are a result of dismantling or wrecking, including scrap metals or other scrap materials, with no burning permitted.

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.

SCALE shall mean a proportional relationship of the size of parts to one another and to the human figure.

SCHOOL, 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.

SCHOOL, PRIVATE shall mean facilities which conduct regular academic instruction for a profit, such as commercial schools, private trade schools, and business schools.

SCREENING shall mean a structure of planting that conceals from view from public ways the area behind such structure or planting.

SEASONAL USE shall mean those land uses and structures that are operated during specific seasons of the year, ie. Christmas tree sales and haunted houses.

SELECTIVE CLEARING shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.

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.

SELF-SERVICE STORAGE FACILITY shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

SEPARATE OWNERSHIP shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

SERVICE STATIONS 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, but including temporary storage of wrecked, inoperable, or unlicensed vehicles outside a screened and enclosed area for more than ten days.

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 street/road right-of-way line.

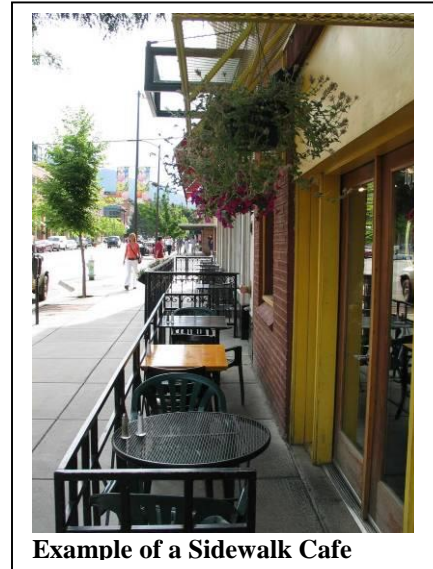
SETBACK LINE, REAR YARD OR SIDE YARD shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.

SETBACK LINE, STREET SIDE YARD shall mean the line which defines the depth of the designated street side yard on a corner lot. Said setback line shall be parallel with the street/road right-of-way line.

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.

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 on-site parking and small linear shopping centers with on-site parking in front of the stores.

SHOPPING CENTER, OUTLET shall mean a commercial development that consists mostly of manufacturers' outlet stores selling their own brands at a discounted price. This definition includes all forms of centers, such as strip style, enclosed mall style, and city clustered style centers.

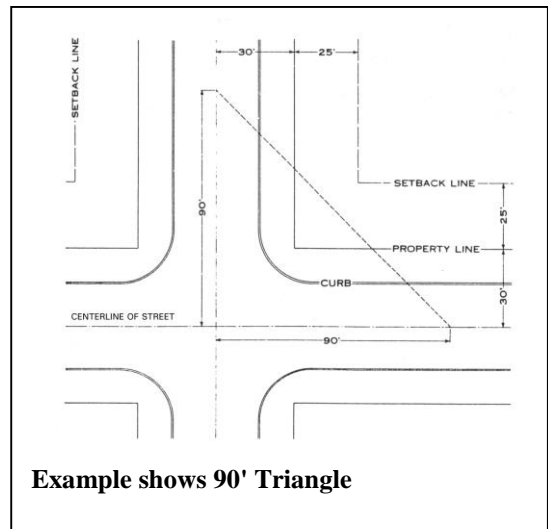


Example of a Sidewalk Cafe

SHRUB shall mean a multi-stemmed woody plant other than a tree.

SIDEWALK CAFE shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.

SIGHT TRIANGLE is an area at a street intersection (or street and railroad) in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision within the area formed by the center line of streets at a distance of ninety (90) feet from their intersections, there shall be no obstruction to vision between a height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average grade of each street at the center line thereof. See also Section 4.09.



Example shows 90' Triangle

SIGN see Article 7 of this Ordinance.

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.

SITE BREAK shall mean a structural or landscape device to interrupt long vistas and create visual interest in a site development.

SITE PLAN (see Development Concept Plan)

SITE, SEPTIC shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

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.

SKATE PARK shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for use with skateboards and in-line skates.

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 lays upon the device while it is in motion.

SKATEBOARD PIPE shall mean an outdoor structure which is shaped into a half circle or oval, that are designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

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.

SLAUGHTERHOUSE shall mean a place where cattle, sheep, hogs or other animals are killed or butchered for market or for sale; provided, however, that this shall not be taken to mean or include poultry.

SLUDGE shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

SOLID WASTE shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

SOLID WASTE COMPANY shall mean any company or firm that takes away, removes, or transfers solid wastes from one location to another through the use of vehicles or rail cars.

SPECIAL USE OR SPECIAL USE PERMIT shall mean conditional use or conditional use permit.

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.

STABLE shall mean a facility, either as a principal or accessory use, that is designed for the maintenance, rental, or storage of non-domesticated animals.

STABLE, PRIVATE shall mean a detached accessory building or barn for the keeping of horses solely owned by the occupants of the premises, or their immediate family members, and not kept for remuneration, hire, or sale.

STABLE, RIDING shall mean a structure or facility in which horses or ponies, used exclusively for pleasure, riding, or driving, are housed, boarded, trained, or kept for remuneration, hire, or sale.

STANDARD SYSTEM shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

STATE shall mean the State of Nebraska.

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.

STOREFRONT shall mean the public-accessible entrance(s) to a commercial use visible from a private/public street or sidewalk.

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.

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. Said detention shall be designed by a licensed professional engineer and approved by the City.

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.

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.

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.



An Example of a Stormwater Management project

STORY shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade and more than fifty percent (50%) of that total perimeter, or is more than 12 Ft above grade at any point, then such basement or c4ellar shall be considered a story.

STORY, ONE-HALF shall mean the same as "Half-Story".

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 avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this ordinance.

STREET, ARTERIAL shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a City, City, or county with controlled access to abutting property.

STREET CENTERLINE shall mean the centerline of a street right-of-way as established by official surveys.

STREET, COLLECTOR shall mean a street or high way, which is intended to carry traffic from minor street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

STREET, CURVILINEAR shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.

STREET, 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.

STREET FRONTAGE shall mean the distance for which a lot line of a zoned lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

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.

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.

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

STREET, LOCAL shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.

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

STREETS, MAJOR shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.

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."

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

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.

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, driveways, walks, and similar areas.

STRUCTURE, ADVERTISING shall mean the same as "advertising structure".

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.

SUBDIVISION shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. 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.

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. See also Waters of the State.

SWIMMING POOL shall mean a structure, and all appurtenant equipment, constructed either above or below grade with a depth of at least 18 inches utilized for the purposes of swimming, diving, or wading.

2.03.20 **T**

TANNING SPA or SALON 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.

TATTOO 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.

TAVERN (See Bar.)

TELECOMMUNICATIONS FACILITY shall mean any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment, towers or similar structures supporting such equipment, and equipment buildings.

TELEPHONE EXCHANGE shall mean a building used exclusively for the transmission and exchange of telephone messages, but the term shall not include wireless communications towers.

TEMPORARY STRUCTURE shall mean a structure without any foundation or footing and removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

TEMPORARY USE shall mean a use intended for limited duration, not to exceed three months, to be located in a zoning district not permitting such use. Temporary use permits are limited to four per calendar year per lot/property.

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.

TOTAL FLOOR AREA shall mean the area of all floors including finished attics, basements, and other areas where floor to ceiling height is not less than six feet.

TOWER shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)

TOWNHOUSE shall mean a one-family dwelling unit, with a private entrance, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

TRACT shall mean any parcel, lot area or piece of property in or within one mile of the corporate limits of Ashland, Nebraska.

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.

TRAILER CAMP shall mean any site, lot parcel or tract of land which is improved, used or intended to provide a location for the servicing or temporary accommodation of one or more trailers which are used for travel, camping, or recreational purposes.

TRANSPORTATION SERVICES shall mean establishments providing services incidental to transportation, such as forwarding, packing, crating, or other means of preparing goods for shipping.

TRANSFER STATION (REFUSE) shall mean any enclosed facility where solid wastes, trash, or garbage is transferred from one vehicle or rail car to another or where solid wastes, trash, or garbage is stored and consolidated before being transported for disposal elsewhere.

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.

2.03.21 U

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.

USE shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

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.

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.

USE, PERMITTED shall mean any land use allowed without condition within a zoning district.

USE, PROHIBITED shall mean any use of land, other than non-conforming, which is not listed as a permitted use or conditional use within a zoning district.

USE, PRINCIPAL shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal.)

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".

UTILITARIAN STRUCTURE shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

UTILITY EASEMENT shall mean the same as "Easement".

UTILITY HARDWARE shall mean devices such as poles, cross arms, 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.

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.

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.

UTILITY SERVICE shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

2.03.22 V

VARIANCE shall mean a relief from or variation of the provisions of this Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

VEGETATION shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.

VEHICLE or VEHICLES shall mean equipment for transportation of persons, goods, materials, or animals, and equipment ordinarily used for recreational purposes. Included shall be, by way of example and not limitation, automobiles, trucks, trailers, marine craft, snowmobiles, all-terrain vehicles, campers, motor homes, pick-up campers, buses, construction equipment, farm implements, and recreational vehicles.

VEHICLE, MOTOR (See Motor Vehicle.)

VETERINARY SERVICES shall mean a building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not also provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. Such clinics may or may not also provide general grooming practices for such animals.

VIEW shall mean a range of sight including pleasing vistas or prospects or scenes. Views include but are not limited to the sight of geologic features, water, skylines, bridges, and distant cities.

VIEW CORRIDOR shall mean the line of sight identified as to height, width, and distance of an observer looking toward an object of significance to the community or the route that directs a viewer's attention.

VIEW PROTECTION REGULATIONS shall mean the regulations that protect the view of or from particular points, usually via height limitations.

VISUAL IMPACT shall mean a modification or change that could be either compatible or incompatible with the scale, form, texture, or color of the existing natural or man-made landscape.

VOCATIONAL OR SPECIAL TRAINING FACILITIES shall mean a specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone. Incidental instructional services in conjunction with another primary use shall not be included in this definition.

2.03.23 **W**

WAREHOUSE shall mean a building used primarily for the storage of goods and materials.

WAREHOUSE AND DISTRIBUTION shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

WASTEWATER LAGOON (See Lagoon.)

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.

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.

WHOLESALE ESTABLISHMENT shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

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.

WILDLIFE shall mean animals or plants existing in their natural habitat.

WIND ENERGY SYSTEM shall mean a wind-driven machine that converts wind energy into electrical power for the primary purpose of resale or off-site use.

WINERY shall mean a commercial, bonded facility for the fermentation and processing of grapes or other products into wine, or the re-fermentation of still wine into sparkling wine. The term winery shall include a winery visitor's center, which includes tour and tasting facilities, a gift shop for retail sales of wines and wine related items, and an eating facility in association with the winery such as a café, restaurant or delicatessen. A winery is permitted to have facilities for and to conduct events such as festivals, weddings, receptions, corporate parties and conferences.

The winery shall be permitted to sell at retail from the premises wine by the glass and bottle to visitors for consumption on the premises as well as to sell at retail sealed bottles or other sealed containers of such wine for consumption off the premises.

WIRELESS COMMUNICATIONS TOWER shall mean a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground with guy wires), of either lattice or monopole construction.

2.03.24 **X**

2.03.25 **Y**

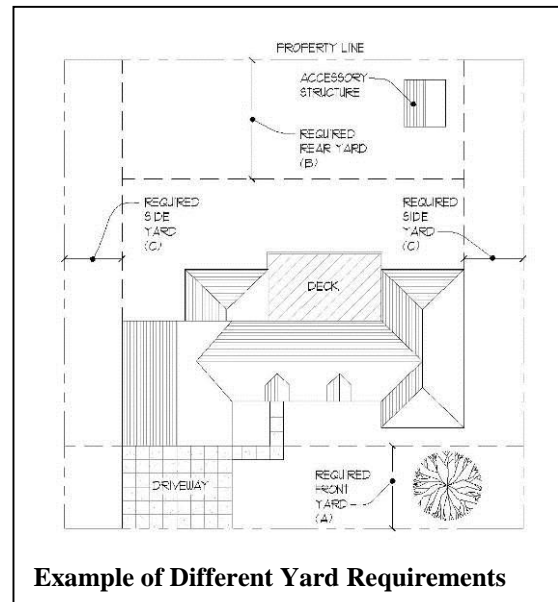
YARD shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this ordinance.

YARD, FRONT shall mean a space between the front yard setback line and the front lot line or street/road right-of-way line, and extending the full width of the lot.

YARD, REAR shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

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 ordinance, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

YARD, STREET SIDE shall mean a yard adjacent to a street, other than a front yard on a corner lot and extending the full width or length of the lot.



Example of Different Yard Requirements

2.03.26 **Z**

ZONED LOT see Lot, Zoning.

ZONING ADMINISTRATOR shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of this Ordinance.

ZONING DISTRICT shall mean a portion of the zoned area of the City of Ashland and the extraterritorial jurisdiction for which uniform regulations governing the use, height, area size and intensity of the use of buildings and structures, land and open space are established by this ordinance. Zoning district shall also mean any section or sections of this ordinance which sets forth such uniform regulations.

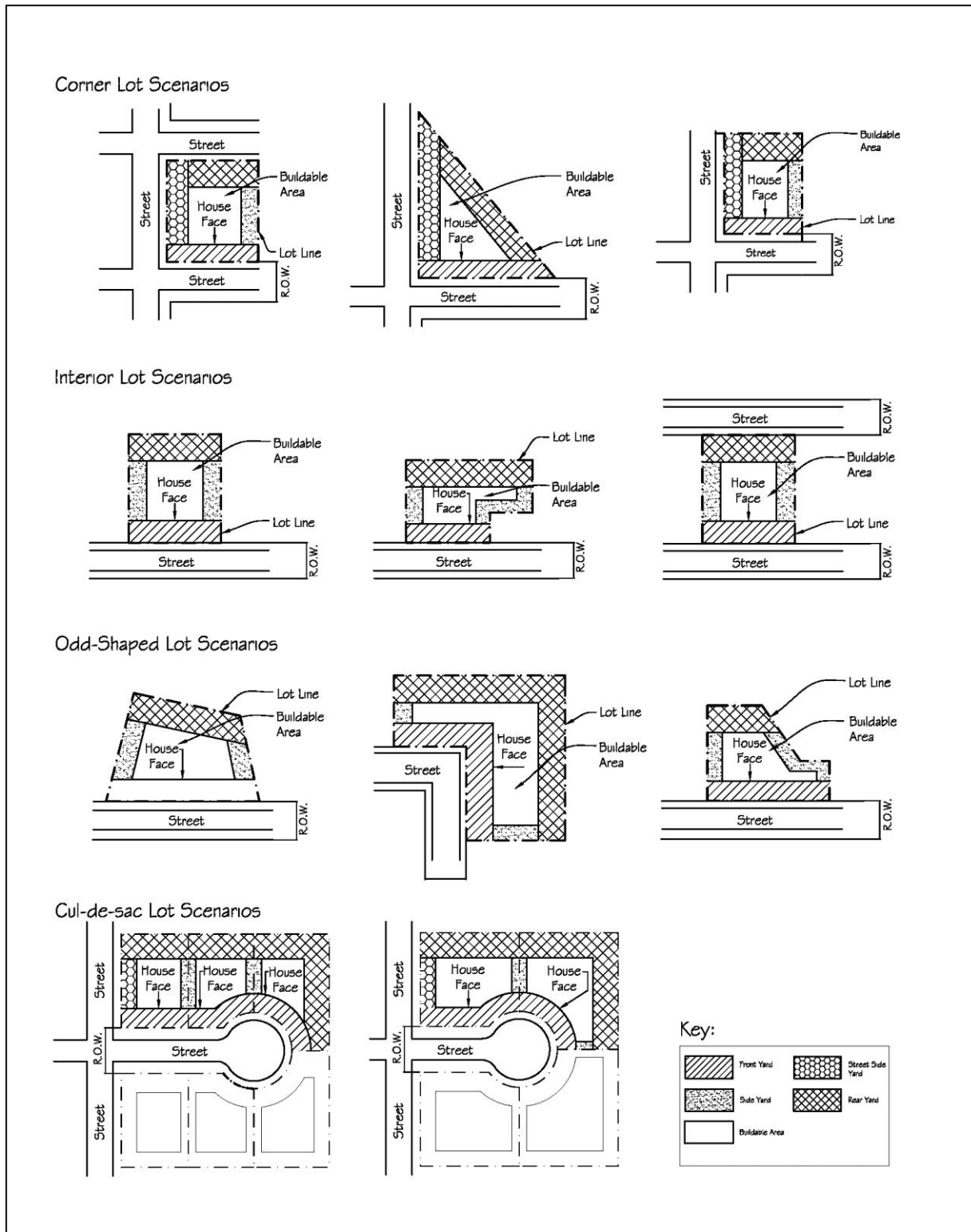
ZONING PERMIT shall mean a written statement issued by the zoning administrator authorizing buildings, structures, or uses in accordance with the provisions of this ordinance.

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.

ZOO shall mean an area, building, or structures which contain wild animals on exhibition for public viewing.

ZOO ANIMALS shall mean those animals that are kept in either a zoo or private zoo which are not native to Nebraska or the Great Plains region.

ZOO, PRIVATE shall mean any lot, building, structure, enclosure, or premises whereupon or wherein are kept by any person, other than a municipal corporation, the United States, the state, or any other political subdivision thereof, two or more wild animals, whether such keeping is for pleasure, profit, breeding, or exhibiting, and including places where two or more wild animals are boarded, kept for sale or kept for hire.



Example of possible Lot Configurations and Yard Requirements

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 the prescribed extraterritorial jurisdiction of the City as allowed under Nebraska Revised Statutes and 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. _____ of the City of Ashland, 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 supersedes and replaces the Official Zoning Map adopted _____ Ordinance No. _____ of the City of Ashland, 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 Section §19-901 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

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 Ashland, Nebraska, and within the territory beyond said corporate limits as prescribed under Nebraska Revised Statutes, as established on the map entitled "The Official Zoning Map of the City of Ashland, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Protection Corridors

In addition to the regulations of this Ordinance, all structures within any protection corridor of the city, the county or the Nebraska Department of Roads shall adhere to any permits, reviews and established setbacks.

Section 4.05 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 4.06 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, or unless otherwise provided for in these regulations.

Section 4.07 Lot

4.07.01 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 (1) principal building on a lot unless otherwise provided.

4.07.02 More than one principal building, of a single permitted use may be located upon a lot or tract in the following instances:

1. Institutional buildings
2. Public or semi-public buildings
2. Multiple-family dwellings
3. Commercial or industrial buildings
4. Home for the aged
5. Agricultural buildings

Section 4.08 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 4.09 Obstructions to Vision at Street Intersections Prohibited

In all districts except Central Business, on a corner lot, within the area formed by the center line of streets at a distance of ninety (90) feet from their intersections, there shall be no obstruction to vision between a height of three and one-half (3 ½) feet and a height of ten (10) feet above the average grade of each street at the center line thereof. On a four-lane street or road, such measurement shall be taken from the center of the nearest set of lanes and not the center of the entire roadway. The required distance may be increased based upon subdivision design and speed limits along major or other arterials. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. Such distances shall also apply to the intersection of street or road and a railroad.

No street tree shall be planted closer than thirty-five (35) feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines. All landscaping materials or structures installed in the street/road right-of-way, including islands, medians, roundabouts, and chicanes, shall be at least 50% non-opaque between the heights of three and one-half (3 ½) feet and 10 feet, unless approved by the City, to reduce vision and hearing obstruction and the interference with pedestrian or vehicular traffic in any way.

Section 4.10 Yard Requirements

- 4.10.01 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.
- 4.10.02 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.
- 4.10.03 The City may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback of principal structures provided that 1) more than 30 percent of the frontage on one side of a street between intersecting streets is occupied by principal structures on the effective date of this Ordinance, and 2) a minority of such structures have observed or conformed to an average setback line.
- 4.10.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.10.05 Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening.

Section 4.11 Through Lots

- 4.11.01 Through Lots shall follow the following criteria:
1. Where a Through Lot abuts a major thoroughfare, such as Highway 6 and access is made from the other frontage street and access along said thoroughfare 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 4.10.01 (1), while the other two frontages shall be treated as a Corner Lot with two Front Yard setbacks.
 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.
 - B. 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 4.12 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 with data indicating that such changes will not be a detriment to the neighboring lands.

Section 4.13 Permitted Obstructions in Required Yards

The following shall not be considered to be obstructions when located in the required yards:

- 4.13.01 *All Yards:* Open porches, platforms or terraces not over three (3) feet above the average level of the adjoining ground and extending not more than four (4) feet into the required yard; awnings and canopies provided they do not extend or project into the yard more than four (4) feet; steps four (4) 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, roof overhangs, eaves, cornices, and window air conditioners projecting twenty-four (24) inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.13.02 *Front Yards:* Bay windows projecting three (3) feet or less into the yard are permitted.
- 4.13.03 *Rear and Side Yards:* Open off-street parking spaces, balconies or outside elements of central air conditioning systems, extending not more than four (4) feet into the yard are permitted.
- 4.13.04 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.13.05 *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 (1) building occupying one (1) lot.
- 4.13.06 *Alley-Facing Rear and Side Yards:* Reconstruction of existing detached garage/storage buildings located in alley-facing rear and side yards is permitted, provided a minimum four (4) foot rear yard setback is maintained.

Section 4.14 Accessory Building and Uses

- 4.14.01 No accessory building shall be constructed upon a lot for more than six months prior to beginning construction of the principal building, except in the TA District. No accessory building shall be used for more than six months unless the principal building on the lot is also being used or unless the principal building is under construction, except in the TA District; however, in no event shall any such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.14.02 No detached accessory building or structure shall exceed the maximum permitted height of the district.
- 4.14.03 No accessory building shall be erected in or encroach upon the required the front yard.
- 4.14.04 Outdoor swimming pools and bathing facilities on residential properties are considered accessory structures and shall meet appropriate setbacks and sides of the pool deck/apron shall be located at least five (5) feet from any lot line.
- 4.14.05 Detached accessory buildings or structures shall be located no closer than 10 feet to any other accessory or principal building as provided in the local building code.
- 4.14.06 All accessory buildings, regardless of zoning district, shall be subordinate to the principal building with regard to size and building footprint except in the TA and RE Districts.
- 4.14.07 No accessory building shall be located in front of the principal structure unless otherwise specified.
- 4.14.08 In the R-1, R-2, R-3 and RT zoning districts, detached accessory garages, carports, and similar outbuildings for storage uses and other structures customary and appurtenant to the permitted uses shall be stick built and constructed of materials customarily used in residential construction and be consistent with materials and color of the principle structure. The roofs of said building shall have a minimum 3:12 pitch. Metal roofing and vertical metal siding are not permitted unless permitted and used on the principal structure. Such structures shall be enclosed on at least three sides. Storage sheds less than one hundred (100) square feet in area may be fully enclosed, modular kits commonly purchased at home improvement stores. This section in no way allows the use of truck bodies, semi-trailers, or enclosed utility trailers, whether converted or not, to be used as accessory structures. Portable storage containers are not permitted. The sidewalls of said buildings shall not exceed ten (10) feet in height.
- 4.14.09 The side or rear yard setback for an accessory structure having vehicular access through said yard to an alley, public street, private road, or ingress/egress easement shall be a minimum of 15 feet.
- 4.14.10 In the R-1, R-2, R-3 and RT Residential Districts, a maximum of two accessory structures shall be allowed

1. Detached garages shall count as one accessory structure, with a maximum allowable size of 750 square feet.
 2. Garden sheds shall count as one accessory structure, with a maximum allowable size of 144 square feet.
- 4.14.10 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, unlicensed boat trailer, unlicensed camp trailer, or other unlicensed vehicle shall not be permitted in any required yard.
 4. Vehicles for sale. In all zoning districts, the display of any vehicle for sale, rent, or lease is limited to one (1) vehicle at a time per property street address, regardless of the number of persons who reside at the property street address. For the purpose of this provision, for dwellings which contain more than one residential unit, the display of any vehicle for sale, rent, or lease is limited to one (1) vehicle at a time per postal address. The sale of a vehicle must not be in connection with an automobile sales business. Only the owner of the property on which the vehicle is displayed, or a tenant thereof, may display such vehicle for sale, rent, or lease. Any vehicle so displayed must be fully operable and licensed as required in these regulations. This section shall not apply to dealers licensed by the State of Nebraska operating lawfully within the zoning district in which they are located. Any person may apply for a conditional use permit to display more than one (1) vehicle at a time for sale, rent, or lease per property street address.

Section 4.15 Permitted Modifications of Height Regulations

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

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television
Conveyors	Towers less than 50 feet in height
Cooling Towers	Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	Air-Pollution Prevention Devices

4.15.02 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 4.16 Occupancy of Basements and Cellars

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

Section 4.17 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 ordinance.

Section 4.18 Non-conforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has 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 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 4.19 Non-conforming Structures

- 4.19.01 **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.
- 4.19.02 **Enlargement, Repair, Alterations:** Any such structure described in Section 4.19.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall create any new type of nonconformity or increase the degree of existing nonconformity of all or any part of such structure, unless otherwise provided for in these regulations. Any such non-conforming structure described herein, where such non-conformity is solely that of not conforming to the setback requirements, may enlarge, maintain, repair or remodel said structure by increasing the wall or walls, which are conforming, in line with the existing structure. Said enlargement, repairs, or remodeling shall not violate the provisions for maximum lot coverage and/or maximum allowable area for accessory buildings.
- 4.19.03 **Damage or Destruction:** In the event that any structure described in Section 4.19.01 is damaged or destroyed, by any means other than by natural acts (such as tornado, flood or unintentional fire), to the extent of more than 50 percent of its structural value exclusive of land and foundation at the time of such damage or destruction, 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, 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 may be extended six months upon an approved building Permit extension request.
- 4.19.04 **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 4.20 Non-conforming Uses

- 4.20.01 **Non-conforming 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 non-conforming 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 non-conforming use of land ceases for any reason for a period of more than 12 consecutive 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.
- 4.20.02 **Non-conforming 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 non-conforming 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 non-conforming use of a structure or structures and premises may be changed to another non-conforming use provided that the Planning Commission and City Council, after each has completed a Public Hearing as per State Statute, 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 non-conforming use. In permitting such change, the Planning Commission and/or City Council 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 non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed;
5. When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive 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 non-conforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming statutes of the land.

Section 4.21 Repairs and Maintenance

- 4.21.01 On any building devoted in whole or in part to any non-conforming 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.
- 4.21.02 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 4.22 Uses under Conditional Use Permit not Non-conforming Uses

Any use for which a conditional use permit is issued as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

Section 4.23 Public Safety Radio Amplification Systems

- 4.23.01 **General:** Except as otherwise provided, no person shall maintain, own, erect, construct, remodel, renovate, or provide an addition of more than 20 percent to, any building or structure or any part thereof or cause the same to be done which fails to support adequate radio coverage for the Saunders County Radio Communications System (SCRCS), including but not limited to emergency service workers, firefighters and police officers. Descriptively, adequate coverage means the ability for SCRCS users to transmit into the building an intelligible voice signal that may be heard; the ability to receive an intelligible voice signal transmitted and originating from within the building; and, the ability to transmit and receive intelligible voice signals among users who are within the building.

For purposes of this section, adequate radio coverage shall include all of the following:

- 1) A minimum received signal strength in the building of one micro volts (-107 dBm) available in 90 percent of the area of each floor when transmitted from the SCRCS;
 - 2) A minimum signal strength of one micro volts (-107 dBm) received by the SCRCS when transmitted from 90 percent of the area of each floor of the building;
 - 3) The frequency range that must be supported shall be 806 MHz to 869 MHz; and,
 - 4) A 90 percent reliability factor shall be required.
- 4.23.02 **Testing Procedures:** Initial Tests; It will be the building owner's responsibility to have the building tested to ensure that two-way coverage on each floor of the building is a minimum of 90 percent. At a minimum, the test shall be conducted using a Motorola MTS 2000, or equivalent portable radio, talking through the SCRCS. Radios may be obtained for conduct of the tests from the Saunders County Communications Department (SCCD). The gain values of all amplifiers shall be measured and the test measurement results shall be provided to the SCCD and kept on file so that the measurements can be verified each year during the annual tests. The SCCD will be informed of the schedule for such testing, and, at its discretion may participate as an observer. A Certificate of Occupancy shall not be issued to any structure if the building fails to comply with this section. Annual Tests; the building owner shall be responsible to conduct annual tests. Such tests shall follow the guidance outlined in Section 4.23.01 and 4.23.02 above.

- 4.23.03 **Amplification Systems Allowed:** Buildings and structures that cannot support the required level of radio coverage shall be equipped with any of the following in order to achieve the required adequate radio coverage: a radiating cable system or an internal multiple antenna system with or without FCC accepted bi-directional amplifiers as needed. If used, bi-directional amplifiers shall include filters to reduce adjacent frequency interference at least 35 dB below the National Public Safety Planning Advisory Committee (NPSPAC) band. The filters shall be tuned to 825 MHz and to 870 MHz so that they will be 35 dB below the NPSPAC frequencies of 824 MHz and 869 MHz respectively. Other settings may be used provided that they do not attenuate the NPSPAC frequencies and further provided that they are not more than one MHz from the NPSPAC frequencies. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of an external power input.
- 4.23.04 **Field Testing:** SCCD personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to certain the required level of radio coverage is present.
- 4.23.05 **Exemptions:** This section shall not apply to; buildings permitted in residential districts; any building constructed of wood frame; any building 35 feet high or less; long as none of the aforementioned buildings make use of any metal construction or any underground storage or parking areas. For purposes of this section, parking structures and stairwells are included in the definition of “building” and stair shafts are included in the definition of “all parts of a building”, but elevators may be excluded.

Section 4.24 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 a part of the Master Fee Schedule adopted by the City Council by separate Ordinance.

Section 4.25 Prohibited Uses

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Ordinance is amended to include a given use.

ARTICLE 5: ZONING DISTRICTS

Section 5.01 Districts: Use.

- 5.01 Districts; Use
- 5.02 Districts; Boundaries
- 5.03 Rules for Interpretation of District Boundaries
- 5.04 Classification of Districts Upon Annexation and Conformance with the Land Use Plan
- 5.05 (TA) Transitional Agriculture
- 5.06 (RE) Residential Estates
- 5.07 (R-1) Low Density Residential
- 5.08 (R-2) Medium Density Residential
- 5.09 (R-3) High Density Residential
- 5.10 (M) Modified Residential
- 5.11 (RT) Residential Transition
- 5.12 (B-1) General Business
- 5.13 (B-2) Downtown Business
- 5.14 (B-3) Highway Business
- 5.15 (FX) Flex
- 5.16 (I-1) Light Industrial
- 5.17 (PUB) Public and Semi-Public
- 5.18 (PUD) Planned Unit Development
- 5.19 (FF/FW) Flood Plain Overlay
- 5.20 (UDO) Urban Development Overlay
- 5.21 (HPD) Preservation Overlay
- 5.22 (CO) Corridor Overlay

For the purpose of this Ordinance, the Municipality is hereby divided into 18 districts, designated as follows:

- (TA) Transitional Agriculture
- (RE) Residential Estates
- (R-1) Low Density Residential
- (R-2) Medium Density Residential
- (R-3) High Density Residential
- (M) Modified Residential
- (RT) Residential Transition
- (B-1) General Business
- (B-2) Downtown Business
- (B-3) Highway Business
- (FX) Flex
- (I-1) Light Industrial
- (PUB) Public and Semi-Public
- (PUD) Planned Unit Development
- (FF/FW) Flood Plain Overlay
- (UDO) Urban Development Overlay
- (HPD) Preservation Overlay
- (CO) Corridor Overlay

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 Ashland, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance 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 Ordinance. 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.)

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:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as following 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;
- F. 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;
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01 – 5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;
- H. 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 Ashland shall be zoned to conform to the Land Use Plan.

Section 5.05 TA Transitional Agriculture District

- A. *Intent.* The Transitional Agriculture 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, or for small acreage residential development.
- B. *Permitted Uses*
1. Agricultural farms, truck gardens, green houses, pasture, plant nurseries, orchards, asparagus, mushroom barns, grain storage facilities, and the usual agricultural farm buildings and structures
 2. Raising and feeding of livestock up to 25 animal units, provided not more than one (1) animal for the first acre of land, and one (1) additional animal for every two (2) additional acres of land
 3. Farm dwelling for the owners and their families, tenants and employees
 4. Single-family dwellings (with approved access location and design).
 5. Roadside stands offering for sale agriculture products produced on the premises
 6. Church, seminary and convent, including residences for pastors and teachers
 7. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, and museums
 8. Fire Station
 9. Public parks and recreation areas, playgrounds, forest and conservation areas, including flood control structures and similar uses and campgrounds under franchise of the County or State government agencies
 10. Public overhead and underground local distribution utilities
 11. Overhead and underground utility main transmission lines to include water, power, telephone, gas, fuel lines; substations; terminal facilities; reservoirs; and storage buildings of a size up to 2500 square feet which uses are incidental to aforementioned uses.
 12. Railroads, not including switching, terminal facilities or freight yards
 13. Irrigation facilities
 14. Stables, riding academies and training facilities for horses.
- C. *Permitted Conditional Uses*
1. Cell/telecommunication towers and transmitters
 2. Airports
 3. Private and commercial kennels and facilities for raising, breeding, and boarding of dogs, and other small animals; provided all buildings and facilities are at least 100 feet from any property line, and 300 feet from any residential zoning district
 4. Veterinarians' offices and hospitals, and commercial kennels.
 5. Extraction and processing of rock, gravel, sand, clay, and dirt
 6. Private and commercial recreational areas and facilities including campgrounds, RV parks, country clubs, golf courses (but not miniature golf), and swimming pools.
 7. Private camping areas
 8. Hospitals, nursing homes, and eleemosynary institutions
 9. Licensed and unlicensed Recreational Vehicle Storage- Out of Doors and/or Within an Enclosed Building
 10. Bed and Breakfast
 11. Temporary concrete or asphalt batch plant
 12. Garages for the storage, maintenance and repair of public vehicles.
 13. Home businesses, subject to Section 8.07.
 14. Non-farm raising and care of animals.
 15. Winery
 16. Cemeteries, provided all structures are located at least one hundred (100) feet from all property lines.
 17. Wastewater treatment facilities and community water works.
 18. Public and private schools and colleges.
 19. Homes for convalescents, aged or children.
 20. Festivals or commercial events, which may include temporary structures, on specified dates.
 21. Detached accessory structure used for dwelling for the owners and their families.

D. *Accessory Uses*

1. Buildings and uses customarily incidental to the permitted and conditional uses
2. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Council which shall be removed upon the completion or abandonment of the construction work
3. Private swimming pool, tennis courts, and other recreational facilities in conjunction with the permitted use
4. Signs as provided for in Article 7.
5. Parking as provided for in Article 8.
6. Home occupations, subject to Section 8.07.
7. Child Care Home I.
8. Non-covered storage for operable and licensed motor homes, boats and camping trailers, customarily incidental to private recreation areas operated as trailer camps. Said non-covered storage must be completely screened with ten (10) foot high permanent privacy fencing totally constructed of wood, vinyl, chain link wire mesh, or ornamental iron. Said non-covered storage and privacy fencing shall not be visible from any roadway or street and/or to any abutting or neighboring properties. Required fencing may be allowed to be concealed from public view by the use of mature trees or shrubbery.
9. Private lakes and ponds, subject to review and approval of Nebraska Department of Natural Resources and NRD.
10. Residential and Small Wind Energy Systems

E. *Height and Area Requirements*

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height***	Lot Coverage
Dwellings	20 Acres	500'	50'	50'	65'	35'	10%
Other Permitted Uses	5 Acres	150'	50'	50'	65'	35'	10%
Accessory Buildings	---	---	80'	25'	25'	25'	5%**

** Total of not more than two buildings with a combined total of 3,000 square feet for non-agricultural uses.

*** Agricultural uses are exempt from maximum height requirements.

Total lot area shall exclude road right-of-way. Setbacks from road/street are measured from property line or right-of-way line when abutting a county or township road.

F. *Other Applicable Provisions*

1. Only one building for living purposes shall be permitted on one zoned lot, except as may be otherwise provided herein.
2. Private wells subject to review in Section 8.19 may be authorized where the following additional standards are met:
 - a. All wells must meet Nebraska Department of Health and Human Services and Department of Environmental Quality standards for quality, design, and operation.
 - b. No well shall be allowed within 1,000 feet of an existing or designated municipal well site.
 - c. The proposed location shall not create a negative impact on adjacent properties.

- d. Authorized permits shall be reviewed for renewal on an annual basis and shall be discontinued when city water services are adjacent to the property or right-of-way contiguous to the property.
- 3. Screening of Recreational Vehicle Storage shall be in compliance with Article 9.

Section 5.06 RE Residential Estates District

- A. Intent:** The Residential Estates District is intended to provide a transition from land used for agricultural purposes to a low density residential use compatible with adjacent urban growth in areas that may not be in the identified growth areas of the community.
- B. Permitted Uses:**
The following principal uses are permitted in the RE District.
1. Agricultural and horticultural uses such as crop farming, nurseries, greenhouses, and the usual agriculture.
 2. Farm dwellings for the owners and their families, tenants, and employees.
 3. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
 4. Railroads, not including switching, terminal facilities or freight yards.
 5. Public overhead and underground local distribution utilities.
 6. Single family dwelling (with approved access location and design).
 7. Churches, temples, seminaries, and convents, including residences for pastors and teachers.
 8. Overhead and underground utility main transmission lines to include to include water, power, telephone, gas, fuel lines; substations, terminal facilities; and reservoirs.
 9. Public services.
 10. Publicly owned and operated facilities.
- C. Conditional Uses:**
The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the RE District as recommended by the Planning Commission and approved by the City Council.
1. Radio, television and wireless communication towers and transmitters.
 2. Stables, riding academies, and training facilities for horses.
 3. Cemeteries, provided all structures are located at least 100 feet from all property lines.
 4. Bed & Breakfasts
 5. Wastewater treatment facilities and community water works.
 6. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), swimming pools, and tennis courts.
 7. Public and private schools and colleges.
 8. Home business.
 9. Garages for the storage, maintenance and repair of public vehicles.
 10. Airports.
 11. Veterinarians' offices and hospitals, and boarding kennels.
 12. Raising and care of animals
 13. Hospitals and institutions.
 14. Homes for convalescents; aged or children.
- D. Permitted Accessory Uses:**
1. Buildings and uses customarily incidental to the permitted and conditional uses, provided they are located to the rear of the primary structure.
 2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
 3. Private barns for not more than one animal unit for the first acre and one additional animal unit for each two additional acres of land or portion thereof over ½ acre.
 4. Signs as provided for in Article 7.
 5. Parking as provided for in Article 8.
 6. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
 7. Incidental public safety uses such as emergency sirens.
 8. Child Care Home I
 9. Home Occupations, subject to Section 8.07
 10. Amateur radio towers and associated facilities, per Section 8.08

E. Height and Lot Requirements:

	Lot Area	Lot <u>Width</u>	Front <u>Yard</u>	Side <u>Yard</u>	Rear <u>Yard</u>	Maximum <u>Height</u>	Lot <u>Coverage</u>
Permitted Uses	5 Acres*	200'	40'	25'	65'	35'	10%
Accessory Buildings	---	---	70'	15'	15'	25'	5%**

* May be reduced to 3 acres in subdivisions of three (3) lots or more.

** Total of not more than two buildings with a combined total of 2,500 square feet for non-agricultural uses, but not to exceed the ground floor coverage of the principal dwelling.

Total lot area shall exclude road right-of-way. Setbacks from road/street are measured from property line or right-of-way line when abutting a county or township road.

Section 5.07 R-1 Low Density Residential District

- A. *Intent.* The Low Density Residential District is intended to provide for large lot residential and compatible uses while maintaining reserve land for planned expansion of intense urban development; to facilitate planned extension of municipal services; and to permit residential use of land where, because of forests, unstable land, or other natural land features, intensive development is not in the best public interest. Provides for single-family residential uses; minimum lot area of 20,000 square feet.
- B. *Permitted Uses*
1. Single-family dwellings
 2. Publicly owned and operated buildings and facilities such as administrative offices, community centers, auditoriums, libraries, and museums
 3. Fire Station
 4. Public parks and recreation areas, playgrounds, forest and conservation areas, including flood control structures and similar uses and campgrounds under franchise of the County or State government agencies
 5. Public overhead and underground local distribution utilities
 6. Railroads, not including switching, terminal buildings or freight yards.
- C. *Permitted Conditional Uses*
1. Public and parochial elementary schools, junior and senior high schools and colleges; nursery schools, private nonprofit schools
 2. Churches, temples, seminaries, and convents, including residences for pastors and teachers
 3. Seasonal offering for sale of agriculture products produced on the premises.
 4. Private recreation areas and facilities, including lakes, ponds, country clubs, golf courses, and swimming pools.
 5. Hospitals, nursing homes, rest homes, sanatoriums, convalescent homes, or other similar uses
 6. Public utility and services uses, substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses
 7. Private commercial recreational areas, exclusive of hunting and shooting areas, auto racing, go-cart tracks, and cycle clubs
 8. Agricultural and horticultural uses such as crop farming, nurseries, green houses, and the usual agricultural buildings, except those activities or operations involving a concentration of areas and buildings for livestock or other intensive animal or poultry productions, shall not be permitted
 9. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
 10. Radio, television and communication towers and transmitters.
 11. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
 12. Cemeteries.
 13. Mortuaries, funeral homes, and funeral chapels
 14. Child Care Center and Child Care Home II
 15. Townhouses
 16. Detached accessory structure used for dwelling for the owners and their families.
 17. Domestic kennel
 18. Keeping of poultry, subject to Section 8.09
- D. *Accessory Uses*
1. Buildings and uses customarily incidental to the permitted and conditional uses. No accessory buildings shall exceed the ground floor coverage of the principal building.
 2. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work
 3. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence
 4. Home occupations, subject to Section 8.07
 5. Child care home I
 6. Signs as provided for in Article 7.
 7. Parking as provided for in Article 8.

E. *Height and Area Requirements*

	<u>Lot Area Sq. Ft.</u>	<u>Lot Width</u>	<u>Front** Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Height</u>	<u>Maximum Lot Coverage</u>
Dwelling							
Single Family	20,000	80'	35'	15'	30'	35'	20%
Other Permitted Uses	20,000	80N	35'	15'	30'	35'	20%
Accessory Buildings	---	---	50'	8'	10'	15'	10%*

* Total not to exceed 900 sq. ft. for residential uses; provided the total lot coverage of all buildings does not exceed 30%.

** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. For means of comparison, a structure shall be compared to other dwelling units on the same side of the street, and one block on each side. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

1. Total lot area shall exclude road right-of-way. Setbacks from road/street are measured from property line or right-of-way line when abutting a county or township road.
2. A one (1) or one and one-half (1 ½) story single-family house with slab on grade or with no basement shall contain at least 1,500 square feet of floor area on one level exclusive of garages and other attached accessory floor area; a split-level or multi-level single-family house shall contain at least 1,500 square feet as the total sum of the nearest floor levels separated by not more than five (5) vertical feet, provided that the floor level or levels nearest the grade or ground line used for living purposes shall contain at least 750 square feet, exclusive of garages and other attached accessory floor area; and a two (2) or two and one-half (2 ½) story single-family house with or without a split-entry shall contain at least 1,200 square feet of floor area on the lower story, if more than 50% of the space is finished and used for living purposes, all exclusive of garages and other attached accessory floor area.

F. *Other Applicable Provisions*

1. Only one (1) building for living purposes shall be permitted on one (1) zoning lot, except as may be otherwise provided herein.

Section 5.08 R-2 Medium Density Residential District

- A. *Intent.* This district is intended to provide for single to four family residential development in areas with adequate public facilities and supporting uses near population centers. Provides for two-family residential uses; minimum lot area of 6,100 square feet per unit.
- B. *Permitted Uses*
1. Single-family dwellings
 2. Single family attached dwellings (Maximum of four dwelling units per structure)
 3. Two-family dwellings
 4. Publicly owned and operated parks, forest preserves, playgrounds, fire stations, community centers, libraries, and auditoriums
 5. Townhouses
 6. Publicly underground local distribution utilities.
- C. *Permitted Conditional Uses*
1. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools, junior and senior high schools and colleges; nursery schools, private nonprofit schools, churches, parsonages, and other religious institutions.
 2. Fraternity and sorority houses associated with a college
 3. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement Housing, convalescent homes, other similar institutions, or philanthropic institutions.
 4. Mortuaries, funeral homes and funeral chapels.
 5. Public utility and services uses, substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar public service uses
 6. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
 7. Bed and Breakfast
 8. Home businesses, subject to Section 8.07
 9. Child Care Home II and Child Care Center
 10. Detached accessory structure used for dwelling for the owners and their families
 11. Domestic kennel
 12. Keeping of poultry, subject to Section 8.09
 13. Expansion of non-conforming structure
- D. *Accessory Uses*
1. Buildings and uses customarily incidental to the permitted uses. No accessory building shall exceed the ground floor coverage of the principal dwelling
 2. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work
 3. Private swimming pool, tennis court and other recreational facilities in conjunction with a residence
 4. Parking for permitted uses as per Article 8
 5. Signs allowed in Article 7
 6. Home occupations, subject to Section 8.07
 7. Child care home I

E. *Height and Area Requirements*

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Height</u>	<u>Lot Coverage</u>
Single Family Dwelling (existing development)**	6,100	44'	25'	10'	25'	35'	35%
Single Family Dwelling (future development)**	7,000	75'	25'	10'	25'	35'	40%
Two Family Dwelling**	8,000	75'	25'	10'	25'	35'	35%
Three and Four Units** (per dwelling unit)	3,000	75'	25'	10'	25'	35'	35%
Other Permitted Uses	10,000	80'	25'	10'	30'	30'	25%
Accessory Buildings	---	---	50'	10'	10'***	15'	10%*

* Provide total area of accessory structure for single family does not exceed 750 sq. ft. and the total lot coverage of all buildings does not exceed 40%

** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. For means of comparison, a structure shall be compared to other dwelling units on the same side of the street, and one block on each side. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

*** Setback for buildings less than 100 square feet in size may be reduced to five (5) feet provided such structure is located no closer than 20 feet to another accessory building on an adjacent property.

F. *Other Applicable Provisions*

1. Only one (1) building for living purposes shall be permitted on one (1) zoned lot, except as may be otherwise provided herein.
2. Off-street parking shall be provided for all uses established in this district.

Section 5.09 R-3 High Density Residential District

- A. *Intent.* The purpose of this district is to permit high density residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants. Provides for multi-family residential uses; minimum lot area of 3,000 square feet per unit.
- B. *Permitted Uses*
1. Single family dwellings
 2. Single family attached dwellings
 3. Two-family, duplex, dwellings
 4. Condominiums
 5. Townhouses
 6. Multiple family dwellings
 7. Boarding, lodging, and rooming houses
 8. Hospitals, sanitariums, rest homes, nursing homes, or other similar uses, philanthropic institutions
 9. Private clubs, fraternities, or other similar uses
 10. Churches, temples, seminaries, and convents including residences for teachers and pastors.
 11. Schools and colleges
 12. Public parks, playgrounds, or other public recreational uses
 13. Publicly owned and operated buildings and uses
 14. Mortuaries, funeral homes and funeral chapels
 15. Public local distribution utilities
- C. *Permitted Conditional Uses*
1. Satellite dish antennas that conform to the supplementary regulations of this Ordinance.
 2. Child care home II and Child Care Center
 3. Bed and Breakfast
 4. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
 5. Mobile homes located within mobile home parks.
 6. Mobile home parks subject to Modified Zoning District.
 7. Charitable clubs and organizations
 8. Home business, subject to Section 8.07
 9. Keeping of poultry, subject to Section 8.09
- D. *Accessory Uses*
1. Buildings and uses customarily incidental to the permitted uses. No accessory buildings shall exceed the ground floor coverage of the principal building.
 2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
 3. Private swimming pool, tennis court and other outdoor recreational facilities in conjunction with dwellings
 4. Off-street parking lots, public and private
 5. Parking as provided for in Article 8.
 6. Signs as provided for in Article 7.
 7. Home Occupations, subject to Section 8.07
 8. Child care home I

E. *Height and Area Requirements*

	Lot <u>Area</u>	Lot <u>Width</u>	Front <u>Yd.</u>	Side <u>Yd.</u>	Rear <u>Yd.</u>	Max. <u>Ht.</u>	Max. Lot <u>Coverage</u>
Single Family Dwelling***	7,000	70'	25'	10'	25'	35'	40%
Two Family Dwelling**** (per dwelling unit)	4,000	75'	25'	10'	25'	35'	40%
Multi-Family Dwelling*** (per dwelling unit)	3,000	100'	25'	(*)	25'	45'	40%
Other Permitted Uses	10,000	70'	25'	10'	25'	45'	30%
Accessory Buildings	---	---	50'	8'	10'****	15'	10%**

* For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

** Provide total area of accessory structure for single family does not exceed 750 sq. ft. and the total lot coverage of all buildings does not exceed 40%

*** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. For means of comparison, a structure shall be compared to other dwelling units on the same side of the street, and one block on each side. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

**** Setback for buildings less than 100 square feet in size may be reduced to five (5) feet provided such structure is located no closer than 20 feet to another accessory building on an adjacent property.

F. *Other Applicable Provisions*

1. Only one (1) building for living purposes shall be permitted on one (1) zoned lot, except as may be otherwise provided herein.
2. Off-street parking and loading space shall be provided for all uses established in this district.

Section 5.10 M Modified Residential District

- A. *Intent.* An appending or combining district designed for mobile home parks. This zoning district is created to be appended to another primary residential district to provide for the inclusion of mobile home parks as an additional use at locations which are suitable for mobile dwellings, and to provide for the placement of more than one transportable structure on a zoned lot.
- B. *Permitted Uses*
 - 1. Any principal uses permitted in the Primary Zoning District to which M Modified Residential District classification is appended when established according to the regulations and provisions of the primary zoning district
 - 2. Mobile Home Parks authorized and licensed by the city for the parking and occupancy of mobile dwellings
- C. *Permitted Conditional Uses*
 - 1. Any conditional use permitted in the Primary Zoning District to which M Modified Residential District classification is appended when established according to the regulations and provisions of the Primary Zoning District
 - 2. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
- D. *Accessory Uses*
 - 1. Any accessory use permitted in the Primary Zoning District to which M Modified Residential District classification is appended when established according to the regulations and provisions of the Primary Zoning District
 - 2. Accessory uses which are necessary or required by other ordinances of the city, such as storm shelters or service facilities for bathing, laundry, etc., as required by the State or County Health regulations
- E. *Building Height and Area Requirements for Permanent Structures*
 - 1. The requirements of the Primary Zoning District shall be applicable. In the event the tract of land lies in more than one primary zoning district, the requirements of the more restrictive primary zoning district shall be applicable.
- F. *Additional requirements*
 - 1. *Area and Setback Requirements*

Minimum Mobile Home Park Land Area	Five (5) acres
Minimum Mobile Home Park Width	300 feet
Minimum Front Buffer Area	50 feet (street line to individual interior lot line)
Minimum Side Buffer Area	25 feet (street property line to individual interior lot line)
Minimum Rear Buffer Area	25 feet (rear property line to individual interior lot line)

2. *Individual Interior Lot Requirements*

Minimum Lot Area	4,000 square feet
Minimum Lot Width	40 feet
Minimum Lot Depth	100 feet
Minimum Front Yard	20 feet
Minimum Side Yard	5 feet
Minimum Rear Yard	5 feet

3. Mobile Homes Shall Maintain the Following Minimum Separations

End to End	10 feet
End to Side	10 feet
Side to Side	10 feet
Mobile Home to Community Building	30 feet
Mobile Home to Accessory Storage Building	5 feet
Mobile Home to Accessory Garage	10 feet

4. Mobile Home Minimum Size

Minimum Livable Floor Area	500 square feet
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G. *Streets*

1. Public streets are subject to the requirements of the City of Ashland subdivision regulations.
2. If private streets are utilized, the following shall apply:
 - a. On streets where parallel parking is allowed on both sides of the street, the width of the street shall be a minimum of thirty-six (36) feet exclusive of curbs.
 - b. On streets where parallel parking is allowed on one side of the street, the width of the street shall be a minimum of thirty (30) feet exclusive of curbs.
 - c. On streets where parking is prohibited, the width of the street shall be a minimum of twenty-four (24) feet exclusive of curbs.
 - d. On streets restricted to one-way traffic with parking on one side, the width of the street shall be a minimum of twenty-four (24) feet exclusive of curbs.
 - e. Each individual interior lot shall have access to a paved drive of either concrete or asphaltic concrete with concrete curbs.
 - f. Verification of rescue vehicle access to all individual interior lots will be required.
 - g. All private streets shall have unobstructed access to a public street.
3. All streets and sidewalks within the mobile home park shall be adequately lighted.
4. All streets must be completely constructed prior to the placement of any mobile home on said street.

H. *Parking*

1. Off-street parking shall be provided for all uses established in this zoning district.
2. A minimum of two hard surfaced off-street parking stalls shall be provided for each individual interior lot

I. *Sidewalks*

1. Sidewalks shall be provided in locations where pedestrian traffic is concentrated and shall be installed along streets, to the entrance of the office, community building and other important facilities.
2. Minimum sidewalk width shall be four (4) feet.
3. Sidewalks shall be constructed of concrete.

J. *Storm Shelter/Community Building*

1. A community building shall be provided which shall include at a minimum a storm shelter for park residents. The community building may also provide recreational facilities, laundry facilities and other similar uses. The Storm Shelter shall:

- a. Provide equivalent space for a minimum of two and one half persons per mobile home unit.
- b. Be 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.

K. *Mobile Home Installation*

1. Mobile Home Installation shall conform to the following:
 - a. Stabilizing devices for mobile homes bearing HUD labels shall be installed in accordance with the manufacturer's installation instructions provided with the unit pursuant to §3280.306 of the federal regulations.
 - b. When the information for stabilizing device materials is not provided in the manufacturer's installation instructions, the materials shall be as approved by the local enforcement agency.
 - c. When a mobile home is located in an area subjected to frost heave, the footings and load-carrying portion of the ground anchors shall extend below the frost line or as per the requirements established by the local enforcement agency.
 - d. Enforcement of installation procedures shall be in accordance with the Federal Regulations, codified at 24 C.F.R. Part 3282, Subpart G.

L. *Skirting*

1. Skirting shall be required for all mobile homes.
2. Skirting shall be in good repair, meet manufacturer standards, and be in conformance with the color scheme of the mobile home to which it is applied.
3. Skirting shall be able to withstand wind load requirements and shall not provide harborage for junk or rodents, nor create a fire hazard.
4. Skirting shall provide easy access to all utility connection points of the mobile home and its subsequent connection to the utility risers if they are located within the skirted area.

M. *Park/Open Space*

A minimum of 8% of the total Mobile Home Park area must be maintained as open space to be use for recreation, playground, or park space.

N. *Buffer Space*

1. A solid or semi-solid fence or wall, six (6) feet high, shall be provided between the mobile home park district and any adjoining property or property immediately across the alley which is zoned for residential purposes other than for mobile homes.
2. In lieu of a fence or wall, a landscape buffer may be provided not less than fifteen (15) feet in width, and said landscape buffer shall be planted with coniferous and deciduous plant material so as to provide screening for the park.
3. When the landscape buffer is used in lieu of the fence or wall, the landscape buffer shall not be included as any part of a required rear yard for a mobile home unit.

4. The fence, wall, or landscape buffer shall be properly policed and maintained by the owner.

O. *Accessory Buildings/Garages*

1. Accessory buildings used primarily for storage shall be permitted on individual interior lots, with the following requirements:
 - a. Shall be located no closer than five (5) feet from any Mobile Home.
 - b. Shall be setback a minimum of three (3) feet from any individual interior lot line.
 - c. Shall be setback a minimum of twenty-five (25) feet from the mobile home park interior street.
 - d. Shall be setback a minimum of fifty (50) feet from any public street located outside the mobile home park.
2. Accessory garages used for the storage of motor vehicles shall be permitted on individual interior lots, with the following requirements:
 - a. Shall be located no closer than ten (10) feet from any Mobile Home.
 - b. Shall be setback a minimum of three (3) feet from any individual interior lot line.
 - c. Shall be setback a minimum of twenty (20) feet from the mobile home park interior street.
 - d. Shall be setback a minimum of fifty (50) feet from any public street located outside the mobile home park.
3. Carports may be attached to a mobile home provided that:
 - a. Car port structure is considered part of a mobile home structure and must maintain the same setback requirements as the mobile home unit.
 - b. Car port shall be in good repair, meet manufacturer standards, and be in conformance with the color scheme of the mobile home to which it is applied.
 - c. Car port structure shall only be enclosed on the side attached to the mobile home unit.

P. *Outdoor Storage*

Owner/manager of mobile home park shall discourage outdoor storage of any materials, equipment, or refuse containers by providing appropriate storage facilities such as an enclosed storage building or solid fence enclosure.

Q. *Utilities*

Each individual interior lot shall be served with water and sanitary sewer utilities, and shall have separate shut-offs as required by city utility regulations, and service facilities for bathing, laundry, etc., as required by the State and County regulations. Dedicated easements shall be granted for city access to said shutoffs.

R. *Procedure*

1. A Site Development Plan shall be filed with the Application for Rezoning as an Amendment to the Zoning Map showing the buffer areas for landscape plantings, the layout of individual interior lots, the access roads or drives, utilities distribution system, service facilities, earth grading plan, and such other information necessary to determine whether the proposed development conforms with the provisions of the Primary Zoning District to which it is appended; and such development plans, diagrams, and calculations shall become a part of the amendment and shall be the basis for the issuance of a building permit in conformity therewith.
2. Development Plan alterations which increase the number of dwelling units the arrangement of individual interior lots, and roadway or driveway alignment shall require a resubmission for

approval of the application for rezoning. Any minor changes or adjustments in the individual interior lot lines, or decrease in the number of dwelling units may be approved by the City Council without resubmission.

S. *Other Applicable Provisions*

1. The entire mobile home park shall be considered as one (1) zoned lot.
2. An office shall be provided for conducting business pertaining to the mobile home park. Said office may be located in a mobile home residence.
3. Mobile homes shall comply with all other applicable City Ordinances.

Section 5.11 RT Residential Transition

1. Intent. The Residential Transition District is intended to provide an area within the community where existing residential uses can continue to exist; while allowing for expansion of professional office and/or business uses into the district. This district should provide a connecting link from the downtown vicinity to the highway development. The structures in this area should continue as residential in character; including any new construction.
2. Permitted Uses
 - a. Single family dwellings.
 - b. Single family attached dwellings (Maximum of four dwelling units per structure).
 - c. Two-family (duplex) dwellings.
 - d. Business services including: insurance, real estate, offices, credit services, security brokers, dealers and exchange, title abstracting, legal services, accounting services, finance services and investment services.
 - e. Personal services such as barber shops, beauty salons, reducing salons, and photographic studios.
3. Conditional Uses:
 - a. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
 - b. Child care center and child care home II
 - c. Mortuaries, funeral homes and funeral chapels
 - d. Home Businesses, subject to Section 8.07
 - e. Domestic kennel
 - f. Keeping of poultry, subject to Section 8.09
4. Accessory Uses:
 - a. Buildings and uses customarily incidental to the permitted uses. No accessory buildings shall exceed the ground floor coverage of the principal building.
 - b. Child care home I
 - c. Home occupations, subject to Section 8.07
 - d. Signs as provided for in Article 7.
 - e. Parking as provided for in Article 8.
5. *Temporary Uses*
Such uses require a permit from the city and shall be valid for only a specific amount of time as indicated on said permit.
 - a. Temporary structure for festivals or commercial events on commercial property
 - b. Temporary structures as needed for sidewalk and other outdoor sales events on commercial property.
 - c. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
 - d. Firework sales associated with commercial uses subject to provisions of Municipal Code.

6. Height and Lot Requirements:
 a. The height and minimum lot requirements shall be follows:

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Height</u>	<u>Lot Coverage</u>
Single Family Dwelling*** (existing development)	6,100	44'	25'	10'	25'	35'	35%
Single Family Dwelling*** (future development)	7,000	70'	25'	10'	25'	35'	40%
Two Family Dwellings*** (per dwelling unit)	4,000	70'	25'	10'	25'	35'	40%
Three and Four units*** (per dwelling unit)	3,000	75'	25'	(*)	25'	35'	35%
Other Permitted Uses	10,000	80'	25'	10'	30'	30'	25%
Accessory Buildings	---	---	50'	10'	10'****	15'	10%**

- * For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.
- ** Provide total area of accessory structure for single family does not exceed 750 sq. ft. and the total lot coverage of all buildings does not exceed 40%.
- *** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. For means of comparison, a structure shall be compared to other dwelling units on the same side of the street, and one block on each side. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.
- **** Setback for buildings less than 100 square feet in size may be reduced to five (5) feet provided such structure is located no closer than 20 feet to another accessory building on an adjacent property.

Section 5.12 B-1 General Business District

- A. *Intent.* The General Commercial District is intended to provide a compact area of retail and office uses to serve portions of the community. The edge of such districts shall be designed to provide compatibility with residentially zoned properties
- B. *Permitted Uses*
1. Retail and Service establishments carried on within an enclosed building.
 2. Business services such as 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
 3. Clothing and apparel services, such as dressmaking, millinery, shoe repair, furrier, and tailors.
 4. Cleaning establishments such as laundromats, dry cleaning and laundries
 5. Equipment sales and services such as radio and television shops, business machines, musical instrument shops, sewing machines, plumbing and heating and electrical fixtures
 6. Personal services such as barber shops, beauty salons, reducing or weight loss salons, and photographic studios
 7. Retail stores such as food markets, delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops, hobby, camera and sporting goods, dry goods, furniture, household appliances, home furnishings, hardware, gift, jewelry, variety stores, retail mail order stores, confectionery, retail dairy stores, men's and boy's clothing and furnishings store, radio, electronics and music store, retail liquor store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery, or floor covering store, convenience mart (with gasoline sales) and camera shops.
 8. Food service, such as eating and drinking establishments
 9. Motels, hotels
 10. Civic and cultural facilities including auditoriums, civic centers, fire stations and other safety services facilities
 11. Professional services, such as medical and health services, legal services, engineering, architectural, educational, accounting, planning, management consulting, police and security services
 12. Public overhead and underground local distribution utilities.
 13. Mortuaries, funeral homes, and funeral chapels.
 14. Transportation depots such as railroad passenger station, bus station.
 15. Cocktail lounges and taverns.
- C. *Permitted Conditional Uses*
1. Retail lumberyard and building materials sales yards
 2. Retail farm implements, equipment, supplies, and feed
 3. Auto sales and service.
 4. Utility substations and communications
 5. Churches, temples, seminaries, and convents including residences for teachers and pastors.
 6. Wholesale distribution houses and warehouses
 7. Carting, express and hauling truck terminals
 8. Second-hand stores and auction activities within an enclosed building
 9. Gasoline service stations with service and/or repair
 10. Retail tires, batteries, accessories, and service
 11. Retail boats, marine crafts, and accessories
 12. Auto repair services
 13. Auto wash services
 14. Recreational establishments such as bowling alleys, billiard halls.

15. Furniture repair and re-upholstery services
16. Laundry pickup and delivery stations.
17. Drive-in restaurants.
18. Printing and publishing.
19. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
20. Child care center
21. Offices or headquarters for services such as plumbers, electricians, and other trades, when such uses is consistent with a commercial district.
22. Outdoor Storage Containers, limited to two containers per business and subject to Section 8.18

D. *Accessory Uses*

1. Building uses customarily incidental and accessory to the permitted principal uses
2. Living quarters used by watchman or custodians of the commercially used property
3. Parking lots, off-street, public, and private
4. Parking as allowed in Article 8.
5. Signs allowed in Article 7.

E. *Temporary Uses*

Such uses require a permit from the city and shall be valid for only a specific amount of time as indicated on said permit.

1. Temporary structure for festivals or commercial events
2. Temporary structures as needed for sidewalk and other outdoor sales events.
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
4. Firework sales subject to provisions of Municipal Code.
5. Temporary food service or merchandise sale from vehicles or trailers on private or public parking lots.

F. *Height and Area Requirements*

	Lot <u>Area</u>	Lot <u>Width</u>	Front <u>Yard</u>	Side <u>Yard</u>	Rear <u>Yard</u>	Max. <u>Height</u>
Permitted Uses	3,500'	50'	20' ³	0' ¹	0'	35' ²

1. Side yard 10 Feet when abutting a zone requiring a side yard and 25 feet for front yards.
2. Special Provisions. Any building over two (2) stories in height permitted in Commercial District shall be so designed to provide for adequate light and air so that any part of such building above the second story shall be no closer than twenty (20) feet perpendicular distance from the vertical extension of any lot boundary.
3. Front Yard may be reduced to less than 25' or the same setback as 50% or more of the buildings in the same block

G. *Use Limitations:*

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property.

Section 5.13 B-2 Downtown Business District

- A. *Intent.* The Downtown Business 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.
- B. *Permitted Uses*
1. Clothing and apparel services, such as dressmaking, millinery, shoe repair, furrier, and tailors.
 2. Business services such as 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
 3. Child Care Center
 4. Theaters, fraternal and cultural facilities.
 5. Self-service cleaning establishments including: laundromats and laundries.
 6. Equipment sales and services such as radio and television shops, business machines, musical instrument shops, sewing machines, plumbing and heating and electrical fixtures
 7. Personal services including tattoo parlors, salons offering permanent cosmetics, and other such service uses as barber shops, beauty salons, reducing or weight loss salons, and photographic studios
 8. Retail stores such as delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops, hobby, camera and sporting goods, dry goods, furniture, household appliances, home furnishings, hardware, gift, jewelry, variety stores, confectionery, men's and boy's clothing and furnishings store, radio, electronics and music store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery, or floor covering store and camera shops.
 9. Food service, such as eating and drinking establishments
 10. Recreational establishments such as bowling alleys, billiard halls
 11. Transportation depots, such as railroad passenger stations and bus stations
 12. Public buildings, assembly halls, auditoriums, civic centers
 13. Professional services, such as medical and health services, legal services, engineering, architectural, educational, accounting, planning, management consulting, police and security services
 14. Cocktail lounges, taverns and retail liquor stores.
 15. Mortuaries, funeral homes, and funeral chapels.
- C. *Permitted Conditional Uses*
1. Residences in conjunction with the principle use when located above the ground floor or rear of building and subject to Subsections F and G.
 2. Retail lumberyard and building material sales yards
 3. Retail farm implements, equipment, supplies, and feed
 4. Retail open-air auto sales
 5. Utility substations
 6. Wholesale distribution houses and warehouses
 8. Carting, express and hauling truck terminals
 9. Second-hand stores and auction activities within an enclosed building
 10. Retail gasoline service stations
 11. Retail tires, batteries, accessories, and service
 12. Retail boats, marine crafts, and accessories
 13. Auto repair services
 14. Auto wash services
 15. Furniture repair and upholstery services
 16. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
 17. Outdoor Storage Containers, limited to two containers per business and subject to Section 8.18
 18. Churches, temples, seminaries, and convents including residences for teachers and pastors.

19. Motels, hotels
20. Printing and publishing.
21. Convenience mart (with gasoline sales).
22. Exterior modifications, alterations, signage
23. Auto dealerships and related service garages
24. Showroom display, sales and fabrication of cabinetry and millwork where shop hours are limited to 7:00 A.M. through 9:00 P.M. and the business consists of less than ten (10) employees.
25. Offices or headquarters for services such as plumbers, electricians, and other trades, when such uses is consistent with a commercial district.

D. *Accessory Uses*

1. Building uses customarily incidental and accessory to the permitted principal uses
2. Living quarters used by watchman or custodians of the commercially used property
3. Parking lots, off-street, public, and private
4. Parking as permitted in Article 8.
5. Signs allowed in Article 7.

E. *Temporary Uses*

Such uses require a permit from the city and shall be valid for only a specific amount of time as indicated on said permit.

1. Temporary structures as needed for sidewalk and other outdoor sales events.
2. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
3. Temporary structure for festivals or commercial events.
4. Firework sales subject to provisions of Municipal Code.
5. Temporary food service or merchandise sale from vehicles or trailers on private or public parking lots.

F. *Height and Area Requirements*

	<u>Lot Area</u>	<u>Front Yard</u>	<u>Side* Yard</u>	<u>Rear Yard</u>	<u>Max. Ht.</u>
Permitted Uses	3,500'	0'	0'	0'	45'

* 10 feet when abutting a zone requiring a side yard and 20 feet for any street side yards. Such side yard shall not be used for parking, drives, storage or signs.

G. *Downtown Residential, Group Residential, and Group Care uses permitted in the B-2 District are subject to the following conditions*

1. Downtown Residential and Group Residential uses are permitted in the B-2 District only on levels above street level except that a unit specifically designed for occupancy by disabled residents or senior citizens may be developed at street level, subject to approval by the City Council with the recommendation of the Planning Commission.
2. Residents of units must be informed by the owner of the building that lawful commercial uses have priority over residential uses.
3. All upper level apartments must have two separate means of egress.
4. One parking space marked and reserved for tenants must be provided for each unit. This parking space shall be located within a maximum distance of 300 feet of the unit.

H. *In order to maintain the character of mixed use urban corridors within Ashland, the following design standards shall apply to any office or commercial use developed within the B-2 District*

1. No street-facing façade may have a continuous length of 100 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
 2. Window area on each façade shall be equal to at least 20% of the area of that façade. All window coverings shall be of cloth or of acceptable material that is consistent within the district.
 3. Exterior materials shall be brick, stone, masonry, wood clapboard, or other exterior materials typical of exterior building materials in common use in Ashland's residential districts or town center business district. Any building with facades in which metallic materials comprise more than 25% of the total area of all facades shall require approval as a Conditional Use by the Planning Commission.
 4. Each site design shall provide a clear and safe method of pedestrian circulation along the street right-of-way and between the street right-of-way and a principal customer entrance of the business.
- I. Uses in the B-2 Downtown Commercial District are exempt from the off-street parking requirements, except for those permitted or conditional uses that involve large assemblies or overnight parking, such as churches, motels, hotels, auditoriums, and residential uses.

Section 5.14 B-3 Highway Business District

- A. *Intent.* The intent of this district is to provide for those trade services, cultural and recreational uses that are appropriate to be developed in conjunction with a highway or major street, thereby offering a desired convenience in location and accessibility to the motoring public. Adult Establishments are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 8, Section 8.17. This district adds certain design standards in comparison to zoning districts located along US Highway 6 and Nebraska Highways 63 and 66. They are designed to promote:
- a. Safe traffic circulation on and off and across the highway.
 - b. A high quality of design and site planning.
 - c. Flexibility in development in order to provide an attractive, viable employment corridor.
- B. *Permitted Uses*
1. Agriculture on more than ten (10) acres.
 2. Public or semi-public buildings on more than ten (10) acres.
 3. Clothing and apparel services, such as dressmaking, millinery, shoe repair, furrier, and tailors.
 2. Business services such as 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
 3. Child Care Center
 4. Equipment sales and services such as radio and television shops, business machines, musical instrument shops, sewing machines, plumbing and heating and electrical fixtures
 7. Personal services such as barber shops, beauty salons, reducing salons, and photographic studios, excluding tattoo parlors.
 8. Retail stores such as delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops, hobby, camera and sporting goods, dry goods, furniture, household appliances, home furnishings, hardware, gift, jewelry, variety stores, confectionery, men's and boy's clothing and furnishings store, radio, electronics and music store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery, or floor covering store and camera shops.
 9. Food service, such as eating and drinking establishments
 10. Transportation depots, such as railroad passenger stations and bus stations
 12. Public buildings, assembly halls, auditoriums, civic centers
 13. Professional services, such as medical and health services, legal services, engineering, architectural, educational, accounting, planning, management consulting, police and security services
 14. Cocktail lounges, taverns and retail liquor stores.
 15. Mortuaries, funeral homes, and funeral chapels.
 16. Lumber yards, hardware stores and building material sales yards.
 17. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
 18. When located at least one hundred (100') feet away from any (R) District Boundary: Bowling alley, Drive-In restaurant or similar establishment, Drive-in theater, theaters, fraternal and cultural facilities. and other similar place of entertainment or amusement.
 19. Adult Establishments.
- C. *Permitted Conditional Uses*
1. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
 2. Child care center
 3. Outdoor Storage Containers, limited to two containers per business and subject to Section 8.18
 4. Apartments above a store or shop.
 5. Living quarters used by watchmen or custodians of the commercially used property.

6. Offices or headquarters for services such as plumbers, electricians, and other trades, when such uses is consistent with a commercial district.
7. Automobile display, sales, service, and repair.
8. Motels, hotels and trailer campgrounds.
9. Commercial greenhouse.
10. Golf driving ranges, miniature golf.

D. *Accessory Uses*

1. Building and uses customarily incidental to the permitted uses
2. Parking lots: off-street, public, and private
3. Parking as permitted in Article 8.
4. Signs allowed in Article 7.

E. *Temporary Uses*

Such uses require a permit from the city and shall be valid for only a specific amount of time as indicated on said permit.

1. Temporary structures as needed for sidewalk and other outdoor sales events.
2. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
3. Temporary structure for festivals or commercial events.
4. Firework sales subject to provisions of Municipal Code.

F. *Height and Area Requirements*

The height and minimum lot requirements shall be as follows:

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Max. Ht.</u>
Permitted Uses	5 acres*	150'	25'**	10'	25'	35'

* Lots served by city water and sewer may conform to a minimum lot size of 10,000 square feet.

** 25' front yard setback 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'.

G. *Use Limitations*

- a. Thirty-five percent (35%) of the required front yard shall be maintained in a landscaped yard.
- b. Signs: One pole sign not to exceed thirty (30) feet in height and set back such as not to allow signage to project over the front property line, and one wall sign affixed to the side of a principle permitted building. Maximum size: one hundred (100) square feet.
- c. No lot may take access directly from the Highway unless permitted by the State of Nebraska Department of Roads.
- d. When a property owner or a developer intends to develop a property already zoned B-3, he/she shall file together with the building permit or rezoning application, a detailed Site Development Plan and such other drawings, data, calculations, sketches, or diagrams that shall provide reasonable and adequate information to show the location, size, arrangement, and capacity for all areas to be used for highway frontage road, parking, loading and unloading, and vehicular access to streets so that vehicular and pedestrian traffic generated to and from the proposed development will not create undue hazards to the normal traffic movement on the existing streets and highways. These plans and documents shall become a part of the application and shall form the basis for the issuance of a building permit. Any plan changes that change the vehicular accesses, parking layout or building size or location shall require a resubmission for approval.

Section 5.15 FX Flex District

- A. *Intent.* The intent of the Flex District is to provide standards for area suitable for some commercial, office, light industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties. The Flex District is also intended to provide support uses, including complimentary office and retail use complementing the general land use pattern of the county and assisting the implementation of the adopted goals and policies of Adams County. Adult Establishments are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 8, Section 8.17.
- B. *Permitted Uses*
1. Agriculture on more than ten (10) acres.
 2. Public or semi-public buildings on more than five (5) acres.
 3. Clothing and apparel services, such as dressmaking, millinery, shoe repair, furrier, and tailors.
 4. Business services such as 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
 5. Automobile display, sales, service, and repair.
 6. Motels, hotels and trailer campgrounds.
 7. Commercial greenhouse.
 8. Golf driving ranges, miniature golf.
 9. Lumber yards, hardware stores and building material sales yards.
 10. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
 11. When located at least one hundred (100') feet away from any (R) District Boundary: Bowling alley, Drive-In restaurant or similar establishment, Drive-in theater, and other similar place of entertainment or amusement.
 12. Public local distribution and main transmission utilities.
 13. Adult Establishments.
- C. *Permitted Conditional Uses*
1. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
 2. Child care center
 3. Outdoor Storage Containers, limited to two containers per business and subject to Section 8.18.
 4. Living quarters used by watchmen or custodians of the commercially used property.
 5. Offices or headquarters for services such as plumbers, electricians, and other trades, when such uses is consistent with a commercial district.
 6. Community Centers and Clubs: uses providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests.
 7. Warehouses and wholesale businesses.
 8. Building materials yards with enclosed and screened storage areas.
 9. Highway maintenance yards or buildings.
 10. Self-storage units.
 11. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
 12. Laboratories.
- D. *Accessory Uses*
1. Building and uses customarily incidental to the permitted uses
 2. Parking lots: off-street, public, and private
 3. Parking as permitted in Article 8.

4. Signs allowed in Article 7.

E. *Temporary Uses*

Such uses require a permit from the city and shall be valid for only a specific amount of time as indicated on said permit.

1. Temporary structures as needed for sidewalk and other outdoor sales events.
2. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
3. Temporary structure for festivals or commercial events.
4. Firework sales subject to provisions of Municipal Code.

F. *Height and Area Requirements*

The height and minimum lot requirements shall be as follows:

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Max. Ht.</u>
Permitted Uses	5 acres*	150'	25'**	10'	25'	35'

* Lots served by city water and sewer may conform to a minimum lot size of 10,000 square feet.

** 25' front yard setback 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'.

G. *Use Limitations*

- a. Thirty-five percent (35%) of the required front yard shall be maintained in a landscaped yard.
- b. Signs: One pole sign not to exceed thirty (30) feet in height and set back such as not to allow signage to project over the front property line, and one wall sign affixed to the side of a principle permitted building. Maximum size: one hundred (100) square feet.
- c. No lot may take access directly from the Highway unless permitted by the State of Nebraska Department of Roads.
- d. When a property owner or a developer intends to develop a property already zoned B-3, he/she shall file together with the building permit or rezoning application, a detailed Site Development Plan and such other drawings, data, calculations, sketches, or diagrams that shall provide reasonable and adequate information to show the location, size, arrangement, and capacity for all areas to be used for highway frontage road, parking, loading and unloading, and vehicular access to streets so that vehicular and pedestrian traffic generated to and from the proposed development will not create undue hazards to the normal traffic movement on the existing streets and highways. These plans and documents shall become a part of the application and shall form the basis for the issuance of a building permit. Any plan changes that change the vehicular accesses, parking layout or building size or location shall require a resubmission for approval.

H. *Performance Standards:*

See Section 8.11

Section 5.16 I-1 Light Industrial District

- A. *Intent.* It is the intent of the Light Industrial District Regulations to provide standards for area suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties. Certain uses that are incompatible or would interfere with industrial development are excluded. Adult Establishments are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 8, Section 8.17.
- B. *Permitted Uses*
1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
 2. Laboratories.
 3. Manufacture and assembly of electrical and electronic appliances.
 4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
 5. Manufacture of light sheet metal products including heating and ventilation equipment.
 6. Printing and publishing business.
 7. Stone and monument works.
 8. Public local distribution and main transmission utilities.
 9. Warehouses and wholesale businesses.
 10. Building materials yards with enclosed and screened storage areas.
 11. Highway maintenance yards or buildings.
 12. Self-storage units.
 13. Production of light sheet metal products, including heating and ventilation equipment
 14. Machine shops or other metal working
 15. Storage of farm and agricultural products
 16. Agricultural farms, truck gardens, greenhouses, plant nurseries, orchards, grain storage facilities, and the usual agricultural farm buildings and structures
 17. Building materials and fuel yards
 18. Contractor yards
 19. Fixed plants for processing stone, gravel or clay
 20. Licensed Recreational Vehicle Storage – Out of Doors and /or Within an Enclosed Building
 21. Unlicensed Recreational Vehicle Storage – Out of Doors and/or Within an Enclosed Building
 22. Distribution centers
 23. Animal hospitals
 24. Automotive sales, rental and service within an enclosed building
 25. Adult Establishments.
- C. *Permitted Conditional Uses*
1. Public utility main transmission lines, including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses
 2. Concrete products manufacture
 3. Farm and industrial equipment manufacture
 4. Farm implement and industrial equipment display and sales establishments
 5. Offices and headquarters for trucking companies
 6. Truck terminals including truck washing facilities
 7. Heavy truck or trailer sales, display, service or repair
 8. Fertilizer storage or processing
 9. Fuel storage
 10. Acetylene gas manufacturing or storage

11. Cement, lime, gypsum, or plaster-of-paris manufacture
12. Boiler works
13. Bakery products manufacture
14. Feed and forage plants
15. Grain mill products manufacture
12. Meat products manufacture
16. Manufacture, fabrication, or treatment of sheet metal or shaped metal products including such industries as farm machinery, farm equipment, construction materials and machinery, heating, ventilating, plumbing equipment, and household appliances
17. Fabrication, manufacture and treatment of lumber or wood products
18. Oil, rubber, or leather goods manufacture
19. Satellite dish antennas that conform with the supplementary regulations of this Ordinance
20. Auction Houses that warehouse sale items and sell said items within the auction facility and/or outside of the auction facility, but on the premises
21. Outdoor Storage Containers, not limited in quantity but subject to Section 8.18.
22. Storage of Fireworks.
23. Radio, television and communication towers and transmitters.
24. Mining excavation, sand quarries, and other forms of extraction.
25. Community Centers and Clubs: uses providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests.
26. Small Wind Energy Systems
27. Automobile display, sales, service, and repair.

D. *Accessory Uses*

The following accessory uses are permitted in the LI Light Industrial District:

1. Uses customarily incidental to the principal uses
2. Off-street parking lots, service area, storage areas, and access roads
3. Signs as permitted in Article 7.
4. Parking as permitted in Article 8.

E. *Temporary Uses*

Such uses require a permit from the city and shall be valid for only a specific amount of time as indicated on said permit.

1. Temporary structures as needed for sidewalk and other outdoor sales events.
2. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
3. Temporary structure for festivals or commercial events.
4. Firework sales subject to provisions of Municipal Code.
5. Temporary food service or merchandise sale from vehicles or trailers on private or public parking lots.

F. *Height and Area Requirements*

The height and minimum lot requirements shall be as follows:

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Height</u>
Permitted Uses	10,000	70'	25'	25'	15'	45'

G. *Performance Standards:*

See Section 8.11

Section 5.17 PUB Public and Semi-Public District

1. Intent. The Public and Semi-Public District designates those areas reserved for public use and recreation.
2. Permitted Uses
 - a. Recreational uses including the following: parks, ball fields, swimming pools, soccer fields, trails, and associated uses.
 - b. Other public uses including: cemeteries and fairgrounds.
3. Conditional Uses (reserved)
4. Accessory Uses
 - a. All secondary uses associated with Permitted Uses.
 - b. Parking as allowed in Article 8.
 - c. Signs as allowed in Article 7.

Section 5.18 PUD Planned Unit Development District
A. Intent.

The intent of the PUD District 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, and their inter-relationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

The PUD District is a floating zone. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met.

B. Recommendation, findings of fact and development sizes.

The planning commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD District, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.

1. Said planned unit development shall be in general conformity with the provisions of the Ashland Comprehensive Plan.
2. Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
3. The minimum size allowed for a PUD District shall be as follows:
 - a. Residential, two (2) acres;
 - b. Residential – Commercial (combination), four (4) acres;
 - c. Commercial, three (3) acres, except in C-1 District the only one (1) acre;
 - d. Industrial, ten (10) acres;
 - e. Height, bulk, and setback requirements may be varied so as to promote an efficient and creative PUD District.

C. Use regulations.

In a PUD District no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in R-2 and R-3 Districts and the commercial and industrial districts. All uses must be approved as shown on the development plan as specified in this division.

D. Standards and conditions for development.

A planned unit development shall not be inconsistent 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 by geographic division of the state:

1. The applicant shall satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the City Council. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the City Council upon review and recommendation by the Planning Commission upon the showing of good cause by the developer.
2. 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.

3. 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.
4. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
5. The entire tract or parcel of land to be occupied by the planned unit development shall be held in single ownership or control, or if there are two (2) or more owners, the application for such planned unit development shall be filed jointly by all owners.
6. 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 planned unit development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.
7. Off-street parking and loading shall be provided in accordance with the parking and loading regulations.
8. When a commercial or industrial use within a PUD District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way.
9. Space Limits. All space limit provisions of the primary zone to which the PUD District is appended shall be adhered to, except as modified by plans filed in accordance with the provisions of this zone. In the event the parcel lies in more than one zone, the designed layout may use the various space limits in proportion as the area of each zone relates to the entire parcel, provided that each portion developed contains a proportional share or more of the least dense development in such a manner that the space limit proportions shall be maintained in the event of less than full development. Lot area shall be at least equal to the minimum lot area per dwelling unit required in the primary zone to which the PUD District is appended, and shall also provide that no lot shall be platted with less than three-fourths (3/4) of the lot area in the primary zoning requirement. Any other space limits may be varied from those listed under the primary zone in order to satisfy the purpose of the PUD District classification. Additional space limits may be established as required and with absolute minimum space limits as follows:

Minimum front yard:	15 feet
Minimum side yard:	5 feet
Minimum rear yard:	20 feet
Maximum height of building:	35 feet

Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning Commission and City Council for the protection of health, safety, and general welfare.

10. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development:
 - Residential, forty (40) percent maximum;
 - Commercial, sixty (60) percent maximum.
 - Industrial, sixty-five (65) percent maximum.
11. A minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under Section 16 below. Common open space for the leisure and recreation of PUD residents only shall be owned and maintained in common by them, through a homeowner's association.
12. The PUD District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation, and

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- 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.
13. No residential use shall have direct access onto an arterial street.
 14. All commercial areas must have access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets, unless developed as a pad site within the overall development.
 15. 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 planned unit development.
 16. Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants in common by a homeowner's condominium's or resident's association.
 17. When a developer intends to design a new concept development, the Planning Commission and City Council may grant lesser front, side, and rear yard setbacks, including zero (0) lot line setbacks.
 18. All developments shall use sustainable storm water management practices and maintenance of natural drainage patterns, incorporating water courses into the design of neighborhoods and business park features.

E. Application for approval of Preliminary PUD.

1. An application for a PUD 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 fifteen (15) folded copies of the preliminary development plan for review and approval by the planning commission. Said preliminary shall include a site plan showing:
 - a. Contours at intervals of two (2) feet or spot elevations on a one hundred foot grid shall be required on flat land;
 - b. Location, size, height, and use of all proposed structures in conformance with the yard requirements;
 - c. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
 - d. All streets adjoining subject property and the width of the existing right-of-way;
 - e. Areas set aside for public and private open space with the type of recreational facilities planned for each are indicates;
 - f. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
 - g. Designation of individual lots if such lots are proposed to be sold to individual owners;
 - h. Location of required screening;
 - i. Location of natural features such as ponds, tree clusters, and rock outcropping;
 - j. Existing development on adjacent properties within two hundred (200) feet.
3. 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:
 - a. Net area in square feet or acres. (*Note:* Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)
 - b. Density of dwelling units per acre of the total dwelling units for the entire plan.
 - c. Building coverage of the net area of the planned unit development by individual parcel or total development.

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- d. The percentage of the development plan provided for common open space as defined by this regulation. (*Note:* Normally, this figure should be approximately fifty (50) percent.)
 - e. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
 - f. Required number of off-street parking spaces.
 - g. Gross floor area proposed for commercial buildings.
 - h. All proposed land uses shall be listed by parcel.
4. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
 5. The full legal description of the boundaries of the property or properties shall be included in the planned unit development.
 6. A vicinity map, shall be included, showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.
 7. A description, rendering or drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
 8. When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
 9. Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
 10. The Planning Commission shall hold a Public Hearing on the preliminary PUD after the PUD has been reviewed by City of Ashland staff after giving notice as required by Statute for hearings in amendments.
 11. 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 preliminary plan complies with those regulations, together with its recommendations in respect to the action to be taken on the preliminary PUD. The planning commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.
 12. The City Council may or may not approve the preliminary development plan and authorize the submitting of the final development plan.
 13. Substantial or significant changes in the preliminary PUD shall only be made after rehearing and re-approval.

F. Final approval.

1. After approval of a preliminary plan and prior to the issuance of any building permit, the applicant shall submit an application for final approval with City staff. Said final application may include the entire PUD District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include fifteen (15) folded copies of such drawings, specifications, covenants, easements, conditions, and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in this Ordinance for a PUD 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.
 - i. 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 plan by the landowner is tentatively approved does not:
 - i. Vary the proposed gross residential density or intensity of use by more than five (5) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
 - ii. Increase by more than ten (10) percent the floor area proposed for non-residential use; nor
 - iii. Increase by more than five (5) percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
 - iv. Substantially change the design of the plan so as to significantly alter:
 - (a) Pedestrian or vehicular traffic flow.
 - (b) The juxtaposition of different land uses.
 - (c) The relation of open space to residential development.
 - (d) The proposed phasing of construction.
 - (e) Proposed use of one or more buildings to a more intensive use category as delineated in this Ordinance.
2. 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 review the final plan for compliance, upon review and comment by the City of Ashland staff, with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
 3. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this division as for original approval.

G. Density Bonuses

1. The use of the PUD District, in conjunction with Conservation Easements, will allow a developer of a Subdivision to institute Density Bonuses.
2. Density Bonuses may be awarded in direct proportion to the amount of the proposed Subdivision that is placed within a Conservation Easement.

For example:

If a developer places 30% of the proposed Subdivision into a Conservation Easement, then the required Lot Area may be reduced by 30% in order to maintain the same number of lots that would have been allowed by the Subdivision lot area and the minimum lot size of the Zoning District.

Normal Development

- A developer has 10 acres of land to develop = 435,600 square feet
- Minimum lot area of the Zoning District = 10,000 square feet
- Total lots (minus streets) = 43.56

Development with Conservation Easements

- Same site of 10 acres = 435,600 square feet

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- 30% of site is placed in a Conservation Easement = 130,680 square feet
 - Density Bonus allows total lots of 43.56
 - New minimum lot area for Subdivision = 7,000 square feet
3. Density Bonuses shall not be a means for a developer to lower the Minimum Lot Area within a Subdivision to below three (3) acres, when said lots are on private wells and septic systems. All lots shall be required to meet the criteria established for wells and septic systems as regulated by the Nebraska Department of Environmental Quality.

H. Enforcement and modification of plan.

To further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the PUD 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:

1. The provisions of the plan relating to:
 - 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 shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law.
2. All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or equity by said residents and owners acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved and have been recorded.

I. Amendments.

The PUD District ordinance or an approved preliminary or final 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 fifty-one (51) percent of the owners of the property within the PUD District.

J. Platting.

For unplatted tracts or tracts being replatted, the approval of the preliminary PUD shall be considered as the approval of a preliminary plat. 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 one hundred (100) feet, fifty (50) feet, or twenty (20) feet to the inch.

K. Fees.

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

1. Preliminary PUD; as set in the Master Fee Schedule
2. Final PUD; as set in the Master Fee Schedule

These fees are separate and do not include any Preliminary and Final Plat Fees required by the City of Ashland.

Section 5.19 FF/FW Flood Plain Overlay District
A. Statutory Authorization, Findings of Fact and Purposes
1. Statutory Authorization

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943, 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.

2. Findings of Fact
a. Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Ashland, 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.

b. General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

c. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- i. 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 most current Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated April 5, 2010 as amended, and any future revisions thereto.
- ii. 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.
- iii. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.

- iv. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- v. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

3. 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 1.21 by applying the provisions of this ordinance to:

- a. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- b. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- c. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- d. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

B. General Provisions

1. Lands to Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Ashland identified on the Saunders County and incorporated areas Flood Insurance Rate Map (FIRM) dated April 5, 2010, and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section D of 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 Mayor and Council or its duly designated representative under such safeguards and restrictions as the Mayor and Council 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 E, F, and G.

2. The Enforcement Officer

The Zoning Administrator of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

3. Rules for Interpretation of District Boundaries

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment 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 Adjustment and to submit his own technical evidence, if he so desires.

4. Compliance

Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

5. 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.

6. 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 governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

7. Warning and Disclaimer of Liability

The degree of flood protection required by this 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 floodway and flood fringe 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 Ashland 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.

8. 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.

9. Appeal

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

C. Development Permit

1. Permit Required

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section L.

2. Administration

- a. The Flood Plain Administrator is hereby appointed to administer and implement the provisions of this ordinance.
 - b. Duties of the Flood Plain Administrator shall include, but not be limited to:
 - i. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
 - ii. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
 - iii. Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - iv. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - v. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
 - vi. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
 - vii. When flood proofing is utilized for a particular structure the Flood Plain Administrator shall be presented certification from a registered professional engineer or architect.
3. Application for Permit

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- a. Identify and describe the development to be covered by the floodplain development permit.
- b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
- c. Indicate the use or occupancy for which the proposed development is intended.
- d. Be accompanied by plans and specifications for proposed construction.
- e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- f. Give such other information as reasonably may be required by the Flood Plain Administrator.

D. Establishment of Zoning Districts

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

E. Standards for Floodplain Development

1. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of section F. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
3. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation.
5. Storage of Material and Equipment
 - a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

- b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.
- F. Flood Fringe Overlay District (including AO and AH Zones)
- 1. Permitted Uses

Any use permitted in section G shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of section E are met.
 - 2. Standards for the Flood Fringe Overlay District
 - a. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
 - b. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Flood Plain Administrator as set forth in section C, 2(b)(7).
 - c. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - d. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

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- e. Manufactured Homes
- i. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
- (A) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - (B) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - (C) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (D) Any additions to the manufactured home be similarly anchored.
- ii. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM 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 at or above one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.25A.
- iii. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 6.25B be elevated so that either:
- (A) The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - (B) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.25A.

- f. Recreational vehicles placed on sites within the special flood hazard areas on]the community's official map shall 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.
- g. Located within the areas of special flood hazard established in Section 2.1 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 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:
 - i. 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 (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
 - ii. 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 (1) 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 flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 3.2B(7).
 - iii. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

G. Floodway Overlay District

1. Permitted Uses

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:

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

2. Standards for the Floodway Overlay District

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 5.0 and 6.0.

H. Variance Procedures

1. The Board of Adjustment as established by the City of Ashland 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 Flood Plain 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 the 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;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
 - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

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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 (8.52-8.56 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 not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - e. Variances shall only be issued upon (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.
 - f. 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 the base flood level will result in increased premiums 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.

I. Nonconforming 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 twelve consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Flood Plain Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve months.
 - b. Uses or adjuncts thereof that 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, provided that the alteration shall not preclude its continued designation.

J. 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 of Ashland or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

K. Amendments

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Ashland. At least 5 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this 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 Flood Plain Management Act.

L. Definitions

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

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

"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 sub grade (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 purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's 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.

"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 usual 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").

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

"Freeboard" 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.

"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 projections; (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.

"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."

"Variances" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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

Section 5.20 UDO - Urban Development (Overlay District)**1. INTENT**

This district is created as an overlay to the agricultural district and any other district located inside the corporate limits or within the extraterritorial zoning jurisdiction of the city. It is intended for those areas identified in the comprehensive plan as future growth areas for the city. The district allows the city to work with developers to promote zoning and subdivision options compatible with urban expansion including:

- A. Smaller lot sizes where a common (publicly or privately operated) water and/or sewer service is planned.
- B. Flexible land use and lot designs to protect areas with potential flood plain, steep slope or important visual qualities.

2. AREA OF TRACT

The minimum area of a tract of land to be zoned with the UDO - Urban Development Overlay District shall be five (5) acres. No lot shall be created prior to approval of zoning and subdivision requirements by the city.

3. GENERAL REQUIREMENTS**A. General Provisions**

Within the UDO - Urban Development District variations and departures from normal practice may be permitted. More than one building may be located on a lot. Buildings may be constructed on platted tracts which are smaller than the minimum district lot size requirements where provisions for common utilities and future inclusion to the city are provided. If approved by the city, buildings may be served by private roads in lieu of public streets where perpetual maintenance is provided. Buildings may be located closer to lot lines than otherwise permitted, provided such buildings are architecturally suitable for such a relationship to adjoining property or where landscaping provides a suitable buffer. Any building or portion thereof may be owned in condominium under applicable state laws governing same.

B. Compatibility with Future Growth

A development plan prepared in conformance with preliminary plat requirements shall be submitted with the request for rezoning to the UDO designation. Such development plan shall, in addition, contain;

- 1. easements to accommodate future proposed common or future public utilities
- 2. siting of proposed water wells and leach fields, if the city does not require immediate connection to public systems; or proposed locations of community wells and waste treatment facilities to serve the subdivision until such time as the development can be connected to city services.
- 3. additional easements, rights-of-way and future set back lines as required by the city, that would allow lots to be further subdivided upon annexation. Such provision is intended to encourage economical integration of suburban development.
- 4. proposed land uses and their location

C. A Subdivision Improvements Agreement specifying scheduling, financing and maintenance of improvements plus provisions for annexations shall be reviewed and receive approval by the city with the rezoning request.

4. PERMITTED USES

Any permitted and accessory use allowed in the underlying zoning district or as authorized in the approved development plan.

5. MINIMUM LOT AND YARD AND MAXIMUM HEIGHT REQUIREMENTS

A. Lot area requirements, height requirements, building setbacks, size of buildings, and density of dwelling units, commercial or industrial uses of the primary zoning district to which the UDO - Urban Development District is attached may be amended or reduced.

- B. Other conditions, standards or amenities may be required to be greater than the minimum provided for in these regulations.
 - C. Changes in requirements or limited inclusion of land uses not otherwise permitted may be granted after considering the impact on adjacent uses and compatibility with the Future Land Use Plan. All development shall be in conformity with the Land Use District policies and criteria within the Comprehensive Plan and consistent with the purpose of the Ashland Zoning Ordinance, including such specific purposes as:
 - 1. Minimizing congestion in streets or roads;
 - 2. Securing safety from fire and similar dangers;
 - 3. Lessening or avoiding the hazards to persons or damage to property resulting from the accumulation or runoff of storm or flood waters;
 - 4. Providing adequate light and air;
 - 5. Preventing excessive concentration of population, and excessive and wasteful scattering of population or settlement;
 - 6. Protecting the tax base;
 - 7. Protecting property against blight and depreciation;
 - 8. Securing economy in governmental expenditures;
 - 9. Preserving, protecting and enhancing historic buildings, places, and districts.
6. PROCEDURE
- A. A property owner or developer who intends to develop a tract of land containing at least the minimum area (5 acres) for that primary zoning district and involving more than one structure, may apply for rezoning the property to a UDO - Urban Development Overlay District. The rezoning change shall be an amendment of the zoning map as an appendage to the existing primary zoning district. The rezoning change may also be a request to change the existing primary zoning district to another primary zoning district with the UDO as an appendage.
 - B. The applicant shall file, together with the rezoning application, a Development Plan and such other drawings or calculations necessary to determine whether the proposed development conforms with the intent of the UDO and provides for incorporation into the city's future growth.
 - C. The plans and other drawings and calculations shall provide adequate information to show the arrangement of lots, the number of dwelling units or establishments, building setbacks and height, access drives, walks, parking areas, drainage, grading plan, utilities distribution, recreation areas, open spaces, and the general landscape development.
 - D. The property owners may further be asked to furnish other information, such as typical building floor plans, building elevations to show the general architectural character of the buildings, some indications as to size and type of landscape plant materials, pavements, and other major site improvements.
 - E. The property owner shall submit the tentative construction time schedule (phasing plan), the description of the intended means of financing any proposed common areas or common improvements, statements covering ownership and maintenance of common easements or other common areas, such as open space or recreational facilities, documents for incorporation of Home Owners organization, restrictive covenants, and any other document that may assist the city in reviewing the application. Such construction schedule shall be substantially completed as approved in this section. If, in the opinion of the planning commission or city council, sufficient development has not been commenced or completed, a public hearing to consider removing all or a portion of the UDO may be initiated. The applicant shall be given notice and may present a request for extending the construction time schedule.

- F. The developer shall be required to complete all development in each phase prior to starting construction on subsequent phases including such elements as roads, utilities, and landscaping. Each phase shall provide a balance of permitted uses and shall not contain a majority of uses not otherwise permitted. This may be waived where sufficient phases have been completed to reduce potential impacts on adjacent properties.
- G. These plans, construction schedule, the site development plans, drawings, calculations, and other documents, shall form the basis for issuance of a building permit in conformity therewith.
- H. Any major change in the development plan which may increase the number of dwelling units or establishments, the number of parking stalls, the size or number of structures, and which is a substantial change from the plans and documents approved by the City Council, in the opinion of the Building Inspector, may require a resubmission for approval of the application for rezoning. Any minor changes or adjustments or decrease in the number of dwelling units, common facilities and recreation facilities may be approved by the Building Inspector without resubmission.

Section 5.21 (HPD) Preservation District (Overlay District)

1. Purpose.

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.

2. 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 the building's Central Business District's character. The Preservation Commission shall consist of five (5) members on three year terms. Provided that of those members first taking office, two shall be appointed for one year, two for two years, and one 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 (5) members appointed by the Mayor with confirmation by a majority of the City Council.

The Preservation Commission shall be made up of the following individuals; One (1) member of the City Council or Planning Commission, one (1) historian qualified in the field of American History, one (1) member from the local or county Historical Society, one (1) local real estate agent, and one (1) citizen-at-large.

3. Organization.

The Preservation Commission shall elect from among its own members a chairperson 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 (3) 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 at least quarterly or as need arises at such times and places as it may determine, or upon the call of the Chairperson.

4. 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. Identify and designate local landmarks and landmark districts.
- c. Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
- d. Inspect and investigate structures, sites, and areas which are believed worthy of preservation;

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- e. 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;
 - f. 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;
 - g. For every building or district designated for preservation, maintain a guideline for preservation of the property;
 - h. Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;
 - i. Prepare and deliver an annual report of the Preservation Commission's past actions and future goals to the City Council;
5. Landmarks and Landmark District Requirements.
- A landmark or landmark district must meet one or more of the following criterion:
- a. Be associated with important events that have contributed significantly to the broad patterns of history or culture, or the site of an historic event, or exemplifies the cultural, historical, political, economic, educational, social, aesthetic, or importance to the community.
 - b. Be associated with the life of a person significant in the past.
 - c. Embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction.
 - d. Archeological significance if a site has yielded or is likely to yield important information regarding history or prehistory.

A landmark or landmark district shall possess integrity of design, location, setting, feeling, association, materials, and workmanship. In the case of a landmark district, provisions shall be made to define an accurate boundary, identify properties that contribute to the historical significance of the district, and those, that because of age or integrity, do not contribute. A property shall be eligible if it is fifty (50) years of age or older, unless exceptional significance can be demonstrated.

6. Procedures for Designating Landmarks and Landmark Districts.
- There is hereby established the provision for the designation of local landmarks and landmark districts.
- a. A landmark or landmark district may be proposed by the Commission, City Council, Planning Commission, or upon petition of any person, group of persons, owners, residents, or other interested parties. Any such proposal shall be filed with the Director upon forms prescribed by him or her, and shall include all data required by the Commission. Applications shall require a description and statement of the significance of the landmark or landmark district to justify its proposed designation.
 - b. The recommendation of the Commission for approval of a proposed landmark or landmark district shall state the applicable criteria for such designation.
 - c. Each proposal of a landmark or landmark district shall be considered by the Commission at a public hearing.
 - d. Notice of the time, place and purpose of the public hearing to be held upon the nomination of a landmark or landmark district shall be given by the Commission in the official newspaper of the city not less than 10 days prior to the date of the hearing and by mail to the owners of all property included in the proposed designation, using for that purpose the names and addresses of the last-known owners as shown by the county real property tax records. Failure to send notice by mail to any such property owner where the address of the owner is not so recorded shall not invalidate any proceedings in connection with the proposed designation. The Commission may also give such other notice or conduct a public meeting as may be deemed desirable and practicable.
 - e. A record of the pertinent information presented at the hearing upon a proposed landmark or landmark district shall be made and maintained as a permanent public record.

- f. The Commission may approve, disapprove, or modify the proposal of a landmark or a landmark district and shall notify the applicant of the action taken within 30 days of the referral thereof to the Commission.
 - g. Designation of a landmark shall not be proposed at the objection of an owner. Designation of a landmark district shall not be proposed if the owners of fifty-one percent (51%) of the front footage of the real property in the proposed landmark district object, not to include any public right-of-way located in such district.
7. Transmittal to and Recommendations of Landmarks and Landmark Districts by the Planning Commission. Pursuant to the provisions of this Ordinance, and the procedures set forth herein, the Commission shall transmit the proposal, along with the Commission's recommendations thereon, for the designation of a landmark or landmark district to the Planning Commission within 60 days after consideration. This Section shall require comment by the Planning Commission to consider the degree of conformity or nonconformity with the comprehensive development plan of the City. The proposal, along with recommendations by both the Commission and the Planning Commission thereon, for the designation of a landmark or landmark district shall then be transmitted to the City Council within 60 days after consideration.
8. Consideration of Landmarks and Landmark Districts by Council. Pursuant to the provisions of this Ordinance, and the procedures set forth herein, the City Council shall, by ordinance, designate a landmark or a landmark district.
- a. The City Council shall take into consideration the recommendation of the Commission and Planning Commission and shall further give consideration to the economic consequences to the city and the affected owner.
 - b. Within 30 days after final adoption of the ordinance designating the property as a landmark or landmark district, the Director shall send a copy of such ordinance and a letter outlining the basis of such designation and the obligations and restrictions which result from such designation to the owner of record of each landmark so designated or each property within a designated landmark district by registered or certified mail.
9. 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 Ashland 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. All exterior modifications not requiring a building permit, including changes in exterior color, shall be reviewed and approved by the Preservation Commission prior to installation. 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.
10. Procedure for Certificate.
The application for such certificate shall be filed with the City of Ashland 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 Ashland in a newspaper having a general circulation in the City of Ashland 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 Article 10, Section 10.02 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.

11. 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:

- (a) 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;
- (b) 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.

12. 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.

13. 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.

14. 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 Ashland 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 Ashland. 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 5.22 CO Corridor Overlay District

A. Intent: The city of Ashland has established basic site and building development criteria to be implemented within the boundaries of this overlay district. The Corridor Overlay District has been established in order to implement the policies developed in the Comprehensive Development Plan. These criteria include, but are not limited to the following: landscaping, building material selection, lighting, and road development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridors and entrance into Ashland along Highway 6 and Highway 66. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City of Ashland, by providing quality design and construction which will also aid in the protection of past and future investment in the corridors. The regulations in the overlay district are in addition to those of the underlying zoning district for the property.

1. **Purpose:**

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Ashland. Pertinent to appearance is the design of the site, building and structures, planting, signs, 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.

2. **Geographic Area:**

The Corridor Overlay District extends generally 300 feet from the right-of-way line on either side of Highway 6 and Highway 66 through Ashland's jurisdiction. If a site or property is partially covered by said overlay district, then the entire portion of the site or property facing the Corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

B. Permitted Uses:

The following principal uses are permitted in the CO District.

1. All permitted uses contained in the underlying base zoning district unless specifically noted in these regulations.

C. Permitted Conditional Uses:

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the CO Overlay District as recommended by the Planning Commission and City Council and approved by the City Council.

1. All conditional uses contained in the underlying base zoning district unless specifically noted in these regulations.

D. Minimum Setback Requirements:

Minimum setbacks within underlying zoning district shall be increased to accommodate future road development and increased right-of-way as determined by the city, county and/or state when adjacent to a major arterial, other arterial, or minor arterial as designated in the Future Transportation Plan for the City of Ashland. New subdivision developments are required to dedicate additional right-of-way or platting of an outlot adjacent to such designated arterial in lieu of increased setbacks. Such requirements shall not pertain to lots or farmsteads with existing and permitted uses at the time of the adoption of these regulations.

E. Criteria for Application:

1. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section. This does not apply to farm buildings or single family dwellings.
2. All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar developments shall comply.
3. Process.
 - a. Pre-application Conference: A pre-application conference with city staff to give the applicant an opportunity to discuss plans before a great deal of time or money is expended.

- b. Design Review: The City Building Official will review the submittal documents for compliance with regulations and intent of the overlay district.
 - c. Certificate of Occupancy Permit: After the zoning permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.
 - d. 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.
4. Factors for Evaluation.
- The following factors and characteristics, which affect the appearance of a development, will govern the evaluation of a design submission:
- a. Conformance of regulations and the Building Design Criteria.
 - b. Logic of design.
 - c. Exterior space utilization.
 - d. Architectural character.
 - e. Attractiveness Material selection.
 - f. Harmony and compatibility.
 - g. Circulation-vehicular (and pedestrian).
 - h. Maintenance aspects.

F. Criteria for Appearance:

1. Relationship of Buildings to Site

The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.

 - a. Site planning in which setbacks and yards are in excess of standard commercial zoning restrictions is encouraged to provide an interesting relationship between buildings.
 - b. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways.
 - c. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
 - d. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.
 - e. Refuse and waste removal areas, service yards, storage yards, loading areas, and exterior work areas shall be oriented to the rear of the building away from public right-of-way or properly screened from view from public ways, using materials as stated in criteria for equipment screening.
2. Relationship of Buildings and Site to Adjoining Area (Outside of subdivision or developments)
 - a. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
 - b. Attractive landscape transitions shall be designed to be compatible to adjoining properties.
 - c. Harmony in texture, lines, and masses is required. Monotony shall be avoided.
3. Landscape and Site Treatment

Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.

 - a. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
 - b. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
 - c. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
 - d. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.

- e. Plant material shall be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used.
 - f. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
 - g. Screening of service yards and other places such as mechanical equipment, trash dumpsters, or other items that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer months.
 - h. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.
 - i. All residential fencing within this District shall not exceed six feet in height.
 - j. Fencing within the District and as part of an Industrial Development may be required to be a solid fence.
 - k. All off street parking shall be to the rear of the building, and shall have a 6 feet wide planting buffer and screen wall at the public right of way or nearest lot line. Screen walls shall either be brick or ornamental ironwork, or be a combination of the two.
4. Building Design
- a. Architectural design and style are not restricted; however architectural style should be consistent throughout the subdivision. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
 - b. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
 - c. The primary building material of all portions of the structures shall be negotiated with the City, however, sample materials shall include but not be limited to materials of high quality, such as brick (clay), stucco, wood, glass, split faced concrete masonry units (CMU) with integrated color pigmentation and stone material native to Eastern Nebraska. The materials shall be similar and compatible throughout the entire development. The Ashland staff may allow other primary building designs (of good architectural character i.e. CMU, poured-in-place concrete) for portions of the building not visible from public areas. Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
 - d. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - e. Materials shall be of durable quality.
 - f. In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
 - g. Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationships to one another.
 - h. Colors shall be harmonious and shall use only compatible accents
 - i. Colors shall be of “low reflectance, subtle, neutral, or earth tones” and shall not be of high-intensity or metallic colors unless the colors are true to the materials beings used.
 - j. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
 - k. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
 - l. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.
 - m. Building orientation shall be toward an arterial street, unless it is demonstrated that this would not be feasible. The second floors of existing two story structures, are encouraged to be converted to a residential use and/or office use.

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- n. Structures where the upper floors are not utilized for residential or office use shall utilize decorative features such as displays, curtains, and other materials to enhance the appearance of the overall structure.
 - o. Flat roofs on commercial buildings shall have parapets.
 - p. Metal Buildings shall not be allowed to have visible exterior metal walls facing the corridor without use of acceptable brick, stone or other product on 25% of the frontage.
 - q. All openings in the façade of a building (windows, doorways, etc.) shall be proportioned to reflect pedestrian scale and designed in a manner that encourages interest at the street level. Main or primary entrances to buildings must be delineated through the use of architectural detailing appurtenant to the architectural style of the building. The main or primary entrances shall be oriented toward the front or side street setback.
 - r. Windows shall not carry the appearance of vacancy or deterioration, and shall utilize decorative features such as displays, curtains, and other materials to minimize an appearance of vacancy or deterioration. Windows shall maintain the architectural character of the structure they are a part of.
 - s. Awnings or canopies shall be made of metal or of cloth material.
 - t. Walkway coverings shall be of sheet metal, metal shingles or of standing-seam construction, or of canvas or cloth.
 - u. Iron railings shall be of utilitarian styling as represented in the district.
 - v. Planter boxes and screening walls, when used shall be compatible with the primary structure.
 - w. Facades consisting of brick or masonry shall not be painted if they have not previously been painted.

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 performance of 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 as set in the Master Fee Schedule.

Section 6.03 Planning Commission Public Hearing

Before any proposal for a conditional use permit is considered by the City Council, the Planning Commission shall conduct 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 Ashland, one time at least 10 days prior to such hearing.

Section 6.04 City Council 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 Ashland, one time at least 10 days prior to such hearing.

Section 6.05 Decisions

A majority vote of the Council shall be necessary to grant a conditional use permit. No order of the Council granting a conditional use permit, which has not been acted upon by the applicant, shall be valid for a period longer than 12 months from the date of such order. Unless the following is completed:

- A. The Zoning Administrator, in consultation with City Staff, has granted an additional six month administrative extension provided:
 1. The character (including uses, parking conditions, traffic, and others) of the area in which the use(s) were approved has not changed significantly,
 2. The applicant has made some effort to follow through with said permit or there were circumstances that slowed the applicants' progress.
 3. If the administrative extension of the second six month period has lapsed without establishment of said conditionally permitted use; or, if staff deems the character of the area has changed within the initial six month period, the applicant shall be required to reapply to both the Planning Commission and City Council for further approval(s).

Section 6.06 Standards

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

- A. 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.
- B. 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.
- C. 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.
- D. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- G. 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.
- H. The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
- I. 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.
- J. 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.
- K. 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.

ARTICLE 7: SIGN REGULATIONS

Section 7.01 Purpose and Applicability

A. 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.

B. 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.

C. Definitions and Interpretation

Words and phrases used in this ordinance shall have the meanings set forth herein and in Article 2.

ABANDONED SIGN shall mean a sign which no longer identifies or advertises a business, lessor, service, owner, product, or activity on the parcel where the sign is located or a sign for which no legal owner can be found.

AERIAL SIGN shall mean a balloon or other airborne flotation or inflatable device which sits on a surface or is tethered to the ground or to a building that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered, regardless of whether it does or does not contain text or advertising copy.

ADVERTISING SIGN 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.

ANIMATED SIGN shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene. An animated sign does not include time and temperature, or message center signs.

ANNOUNCEMENT SIGN 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, except the setback shall not apply in the Downtown District.

ARCHITECTURAL CANOPY SIGN 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.

AUDIBLE SIGN 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.

AWNING OR CANOPY SIGN 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.

BACK-LIT SIGN shall mean a sign whose light source is located behind fully opaque letters and/or graphics in the interior of the sign so that the rays go through the face of the sign.

BALLOON SIGN shall mean one or more balloons used as a permanent or temporary sign or as a means of directing attention to any business or profession, or to a commodity or service sold, offered, or manufactured, or to any entertainment.

BANNER/FLAG SIGN 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. Banner signs shall not represent a commercial message.

BANNER (COMMERCIAL) SIGN shall mean an advertising sign of non-rigid material mounted on a building or structural frame.

BILLBOARD SIGN shall mean a large sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold on site or at a location other than where the sign is located.

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

BUILDING MARKER SIGN 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.

CENTER IDENTIFICATION SIGN shall mean any sign erected to provide direction to a development including multiple uses and / or structures within the development. Center Identification signs shall include the name of said development and may include, when permitted, the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.

CHANGEABLE COPY SIGN 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.

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

COMMEMORATIVE SIGN shall mean a permanent sign indicating the name of a structure or site, its address, or other information of commemorative or historical significance.

COMMERCIAL MESSAGE SIGN 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.

CONDITIONAL USE SIGN shall mean a sign type requiring approval by the Planning Commission and City Council as a conditional use permit.

CONSTRUCTION SIGN shall mean a temporary sign identifying an architect, engineer, contractor, subcontractor, and/or building material supplier who participates in construction on the property on which the sign is located.

DESTINATION SIGN 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.

DIGITAL SIGN shall mean a sign which displays an advertisement or message which is generated electronically and commonly utilizes computerized or electronic digital technology, including but not limited to digital display boards, electronic variable message signs and light emitting diode (LED) signs. (See also “Animated Sign”).

DIRECT LIGHTING shall mean illumination by means of an external source.

DIRECTIONAL/INFORMATIONAL SIGN shall mean an on-premises sign which provides direction for the safe and efficient flow of vehicular or pedestrian traffic to an activity on the premise. Directional/Informational signs shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premise.

DIRECTORY SIGN shall mean an on-premises sign identifying an activity, operational feature, or business name upon such premise. Directory signs shall include building names, offices, or activities in same size letters, colors and general design and shall be limited to one sign per street entrance.

DISCONTINUED SIGN (See “Sign, Abandoned”)

DOUBLE-FACED SIGN shall mean a sign constructed to display its message on the outer surfaces of two identical and opposite parallel planes. This does not include “V-type signs”.

DWELL TIME shall mean the duration or interval of time during which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

ELECTRONIC MESSAGE SIGN shall mean a sign that uses changing lights 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. (See also “Animated Sign”).

EXTERNALLY ILLUMINATED SIGN shall mean a sign whose illumination is derived entirely from an external source.

FACADE shall mean the entire building front, including the parapet.

FENCE SIGN shall mean a sign attached to or painted on a fence.

FLASHING SIGN 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.

FREESTANDING SIGN 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.

FRONTAGE shall mean the length of the property line of any one premises along a public right of way on which it borders. A building or building complex which lacks frontage on a public right of way or buildings located on a private street have "internal frontage".

GAS STATION PRICE SIGN shall mean a changeable copy or electronic sign advertising fuel prices.

GOVERNMENT SIGN shall mean any temporary or permanent sign erected and maintained by the City, County, State, or Federal government, or in conjunction with the City, for public information, traffic control or for designation of or direction to any school, hospital, historic site, or public service, property, or facility.

GROUND MONUMENT SIGN shall mean a sign mounted directly to the ground.

HAZARDOUS SIGN shall mean a sign that by reason of design, inadequate maintenance, dilapidation, or obsolescence, or placement creates a hazard to the public health, safety and welfare.

HOLIDAY DECORATION SIGN shall mean a temporary sign, in the nature of decorations, clearly customary and commonly associated with federal, state, local, or religious holidays and contains no commercial message.

IDENTIFICATION SIGN shall mean a sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

ILLEGAL SIGN shall mean any of the following: (1) a sign erected without first obtaining a permit and complying with all regulations in effect at the time of its construction or use; (2) a sign that was legally erected but whose use has ceased because the business it identifies is no longer conducted on the premises; (3) a nonconforming sign for which the amortization period has expired; (4) a sign that was legally erected but which later became nonconforming and then was damaged to the extent of 50 percent or more of its current replacement value; (5) a sign that is a danger to the public or is unsafe; (6) an abandoned or obsolete sign; or (7) a sign that pertains to a specific event that has not been removed within 48 hours after the occurrence of the event.

ILLUMINATED SIGN shall mean a sign illuminated in any manner by an artificial light source.

INCIDENTAL SIGN 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. Incidental signs may be either attached or painted on the wall.

INDIRECTLY ILLUMINATED SIGN shall mean illumination of a sign that is affected by a source of light not contained within the sign itself.

INFLATABLE SIGN shall mean any sign designed or constructed with the ability to be mechanically filled with air or gas that displays a commercial message or an identifiable corporate character or logo.

INTERNAL SIGN shall mean a sign that is not visible or not intended to be viewed from outside the building.

INTERNALLY ILLUMINATED SIGN shall mean a sign that is illuminated by means of a light source in the interior of the sign so that light passes through the face of the sign.

KIOSK SIGN shall mean a freestanding bulletin board or information sign structure having more than two sides that is meant to provide announcements or direction to the public.

LOGO SIGN 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.

MAINTENANCE shall mean the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

MARQUEE SIGN 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.

MENU-BOARD SIGN shall mean a permanently mounted sign displaying the bill of fare for a drive-through restaurant.

MOBILE/VEHICLE SIGN shall mean a sign mounted on a motor vehicle, or trailer, or other framework, not permanently attached to a pole, building or other structure.

MONUMENT SIGN shall mean a sign mounted directly to the ground with a maximum height not to exceed 10 feet.

MOVING SIGN shall mean any sign which in part or in total rotates, revolves, or otherwise is in motion.

MURAL shall mean a painted or sculpted sign or display on a side of building and intended to be made part of the building design.

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

NEON SIGN shall mean a sign containing glass tube lighting in which a gas and phosphors are used in combination to create a colored light.

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

OBSOLETE SIGN 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.

OFF-PREMISES SIGN 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.

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

OPEN SIGN 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.

OUTDOOR ADVERTISING shall include the definitions of "Advertising Structure" and "Sign".

PAINTED WALL SIGN shall mean a sign applied to a building wall with paint or similar substances on the face of a wall and which has no sign structure. A "Painted Wall Sign" is considered to be a wall mounted sign for calculation purposes.

PARAPET SIGN shall mean a sign attached to that portion of a building's exterior wall that projects above the plate line of a building.

PENNANT SIGN 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.

PERMANENT SIGN shall mean a sign attached to a building, structure, or the ground in some manner that requires a permit and which is made of materials intended for long-term use.

POLE SIGN 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.

POLITICAL SIGN shall mean a sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.

PORTABLE SIGN shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations (deliveries and transportation of personnel) of the business. This definition also includes any and all sandwich boards supported by human beings or animals.

PROJECTING SIGN 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.

PUBLIC/TRAFFIC INFORMATION SIGN shall mean a sign, usually erected and maintained by a public agency that provides the public with information and in no way relates to a commercial activity. Such signs include but are not limited to, speed limit signs, stop signs, city limit signs, welcome signs, street name signs, vehicle identification signs, pedestrian wayfinding signs, and destination and directional signs.

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

ROOF LINE shall mean the top edge of the roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

ROOF SIGN 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.

ROOF (INTEGRAL) SIGN 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. Such signs will be treated as a wall sign.

ROTATING SIGN shall mean a sign which in its entirety or in part moves in a revolving or similar manner. Such motion does not include methods of changing copy.

SANDWICH BOARD SIGN shall mean an advertising or business ground sign constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top; each angular face held at an appropriate distance by a supporting member.

SEARCHLIGHT SIGN shall mean a searchlight that is used to announce, direct attention to, or advertise businesses.

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, except the following:

1. Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, City of Ashland, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

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 BASE shall mean any structural element extending upward from grade to the base of the sign.

SIGN COPY shall mean any combination of letters or numbers which are intended to inform, direct or otherwise transmit information.

SIGN COPY AREA shall mean the area of the sign occupied by sign copy. It is computed by measuring the area enclosed by straight lines drawn to enclose the extremities of the letters or numbers.

SIGN FACE shall mean the area or display surface used for the sign copy or message.

SIGN GROSS AREA shall mean the entire area within a single continuous perimeter enclosing the extreme limits of a sign. However, this perimeter shall not include any structural elements lying outside of the limits of the sign and not forming an integral part of the display.

SIGN HEIGHT shall mean the vertical distance measured from the highest point of the sign, excluding embellishments of not more than five feet in height above the sign, to the average ground grade beneath the sign.

SIGN SETBACK shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

SIGN STACKING shall mean the placing of one sign above another at the same location.

SIGN STRUCTURE shall mean the base, supports, uprights, bracing, or framework of any structure exhibiting a sign, be it single-faced, double-faced, or V-type or otherwise.

SIGN SURFACE shall mean the entire area of a sign.

SIGNAGE PLAN shall mean a scaled or dimensioned graphic representation showing a comprehensive detailed presentation of all signage proposed for a particular lot.

SNIPE SIGN shall mean an off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

SPECIAL EVENT SIGN shall mean a sign advertising display that is temporary in nature, is not permanently attached to the ground, building or sign structure surface, and is used for special events, such as, but not limited to, grand openings, seasonal sales, liquidations, going-out-of-business sales, fire sales, and promotions.

STATIC DWELL TIME (see Dwell Time)

STATIC MESSAGE shall mean an advertisement or message which, when displayed contains no motion, flashing, changeable copy, running lights, variations in brightness, or animation.

SUBDIVISION IDENTIFICATION SIGN shall mean a sign that is permanently constructed at the entrance(s) of the subdivision and identifies a recognized subdivision, condominium complex, or residential development, 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.

SUSPENDED SIGN shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TEMPORARY PORTABLE SIGN shall mean a movable reusable sign structure made of durable material, mounted on wheels and towed or on a rigid frame and trucked, which is regularly and periodically moved from parcel to parcel.

TEMPORARY SIGN 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 displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section. Examples are: menu and sandwich board signs, inflatable signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles or trailers parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations (deliveries and transportation of personnel) of the business. This definition also includes any and all sandwich boards supported by human beings or animals.

TETHERED SIGN shall mean a sign which is anchored by a rope, wire, chain or similar method.

TIME AND TEMPERATURE SIGN shall mean an electrically controlled sign which contains only public service, time, temperature, and/or date information.

TRANSITION TIME shall mean the duration or interval of time between which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

TOURIST ORIENTED DIRECTIONAL SIGN 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.

















VIDEO SIGN shall mean any on-premises or off-premises sign that conveys either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen. (See also “Animated Sign”).




















WALL SIGN 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.











WARNING SIGN shall mean a sign located on a property posting such property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity.

WINDOW SIGN 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.

Illustrative Definitions

 <p>Animated Sign</p>	 <p>Announcement Sign</p>	 <p>Awning Sign</p>	 <p>Balloon Sign</p>
 <p>Banner/Flag Sign</p>	 <p>Banner Sign (Commercial)</p>	 <p>Building Marker Sign</p>	 <p>Canopy Sign</p>
 <p>Center Identification Sign</p>	 <p>Changeable Copy Sign</p>	 <p>Commemorative Sign</p>	 <p>Construction Sign</p>
 <p>Destination Sign</p>	 <p>Directional / Informational Sign</p>	 <p>Directory Sign</p>	 <p>Double-faced Sign</p>

 <p>Electronic Message Sign</p>	 <p>Freestanding Sign</p>	 <p>Gas Station Price Sign</p>	 <p>Identification Sign</p>
 <p>Ground Monument Sign</p>	 <p>Incidental Sign</p>	 <p>Inflatable Sign</p>	 <p>Kiosk Sign</p>
 <p>Marquee Sign</p>	 <p>Menu-Board Sign</p>	 <p>Billboard Sign</p>	 <p>Painted Ghost Wall Sign</p>
 <p>Painted Wall Sign</p>	 <p>Parapet Sign</p>	 <p>Pennant Sign</p>	 <p>Pole Sign</p>
 <p>Political Sign</p>	 <p>Projecting Sign</p>	 <p>Public/Traffic Information Sign</p>	 <p>Real Estate Sign</p>

			
<p>Roof Sign</p>	<p>Roof (integrated) Sign</p>	<p>Sandwich Board Sign</p>	<p>Sign, Digital</p>
			
<p>Sign Stacking</p>	<p>Subdivision Identification Sign</p>	<p>Suspended Sign</p>	<p>Wall Sign</p>
			
<p>Warning Sign</p>	<p>Window Sign</p>		

Section 7.02 Design Criteria and Limitations

A. General Sign and Street Graphics Regulations

1. *Compliance*

Each sign or part of a sign erected within the zoning jurisdiction of the City of Ashland must comply with the provisions of this Article and of other relevant provisions of the City of Ashland's Municipal Code; and relevant building codes including the Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways (Nebraska Department of Roads) and with the regulations of the Corridor and Historic Overlay Districts.

2. *Resolution of Conflicting Regulations*

This Article is not meant to repeal or interfere with enforcement of other sections of the City of Ashland's Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.

3. *Prohibited Signs*

The following signs are prohibited in all zoning districts:

- a. Signs painted on or attached to rocks, trees, or other natural objects.
- b. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
- c. Signs on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
- d. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
- e. Abandoned signs. Any abandoned sign must be removed within six months of date of abandonment.
- f. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers, except as provided below.
- g. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.
- h. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.

4. *Exempt Signs*

The following signs are permitted in any zoning district and are exempt from other provisions of these regulations, provided such signs are not located in the designated sight triangle:

- a. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of 20 square feet and are not located in a required sign setback.
- b. Real estate signs.
- c. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
- d. Seasonal decorations for display on private or public property.
- e. On-premise construction signs.

- f. One temporary sign per zoned lot for grand openings or special events, provided that such sign remains in place for a maximum of seven days and is not located within the designated sight triangle.
 - g. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
 - h. Residential signs under 2 square feet in size.
 - i. Neighborhood or subdivision identification signs under 50 square feet.
 - j. Street numbers.
 - k. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.
5. *Bufferyards*
No sign other than on-premise directional signs shall be placed within any required bufferyard, except when the bufferyard is adjacent to a street.
6. *Vision-Clearance Area*
The provisions of Section 4.09 shall be met and no sign may project into or be placed within a vision-clearance area.
- B. General Regulations: Design Elements
- 1. *Illumination*
 - a. Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.
 - 2. *Marquees and Marquee Signs*
 - a. Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.
 - 3. *Banners*
 - a. Banners and Flags displaying advertising, other than for Federal, State, Local, Civic and Institutional uses, shall be considered signs.
 - b. A banner sign projecting from a building may not exceed the wall height of the building.
 - c. Maximum projection for any banner is five feet with a minimum clearance of ten feet.
 - d. Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or 120 square feet.
 - 4. *Clocks*
For the purposes of this section, clocks are not considered a moving sign.
- C. Method and Standard of Measurement
- 1. *Maximum Permitted Sign Area*
Maximum permitted sign area for a premises is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties having one sign with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.
 - 2. *Sign Area*
 - a. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.

- b. The area of double-faced signs is calculated on the largest face only.
 - c. The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the copy only.
 - d. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.
3. *Height*
The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.
4. *Setback*
The setback of a sign is measured from the property line to the supporting frame, mast, pole or base of the sign.
- D. General Permit Procedures
1. *Applicability*
Any installation, modification, or expansion of any sign that is not exempt from the provisions of this Article shall be subject to the following permit procedure prior to installation.
2. *Maintenance of Valid Sign Permit*
The owner of a property 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 zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.
3. *Sign Permit Applications*
All applications for sign permits shall be submitted to the city in accordance with application specifications established by the city.
4. *Application Fees*
Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council.
5. *Action*
Within ten working days of the submission of a complete application for a sign permit, the Building Inspector shall either:
- a. Issue the sign permit, if the sign conforms to the provisions of this Article.
 - b. 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 Article.
6. *Permit Expiration*
If a sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse.
7. *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.
- E. Nonconforming Signs
1. All permanent signs in place and lawfully established on the effective date of this Ordinance shall be considered as legal nonconforming signs. The copy of such a sign may be changed from

time to time, provided that the sign area shall not be enlarged beyond the sign area in existence on the effective date.

2. Any nonconforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than 50% of its replacement cost, shall be either removed or altered so as to comply with this Article.

F. Discontinuance of Nonconforming Signs

Within any zoning district, all on-premises signage must comply fully with the provisions of this Ordinance, unless otherwise provided, within fifteen years of the effective date of this Ordinance.

Section 7.03 Sign Type and Regulations

- A. Real Estate. Not more than 2 signs per lot may be used as a temporary sign no larger than 6 square feet, except TA may be up to 32 square feet and B-3, R-1, R-2, and R-3 new developments may have one sign per development entrance up to 40 square feet, and set back 20 feet from the road right-of-way or road easement boundary line.
- B. Announcement. Small announcement or professional signs, not over 6 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 boundary line may be erected in conjunction with any of the permitted principal uses of a nonresidential nature.
- C. Elevated or Roof. A sign erected upon, against, or directly above a roof or on top of or above the parapet, cornice or façade of a building, subject to the same height limitations of the district. An integral roof sign must be mounted parallel to the wall of the building that it faces.
- D. Name plate. One nameplate not exceeding 2 square feet for each dwelling or principal business.
- E. Billboard. Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
 1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
 2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
 3. No billboard, signboard, or similar advertising signs shall exceed 400 square feet in area.
 4. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- F. Ground. Ground signs at least 5 feet from any lot line with a maximum height of 10 feet and maximum size of 50 square feet.
- G. Pole. One free standing sign per lot containing not more than 100 square feet per sign face for all enterprises on the premises, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceeding 30 feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight feet above the established grade level.
- H. Projecting. One projecting sign per lot containing not more than 60 square feet per sign face for all enterprises on the premises. The lowest horizontal projecting feature of any projecting mounted sign shall be eight feet above the established grade level.
- I. Wall. Signage written upon or a sign installed flat against an outside wall of a building not exceeding one per street frontage and not exceeding two square feet per lineal building/storefront front footage,

not to exceed 300 square feet. Murals shall be considered wall signs. Wall signs appertaining to a nonconforming use on the premise shall not exceed, in the aggregate, 50 square feet in area except as may be authorized by the Board of Adjustment. Wall signs are also subject to the following conditions and restrictions:

1. A wall sign shall not extend more than 30 inches from the wall to which it is attached.
 2. A wall sign must be parallel to the wall to which it is attached.
 3. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
 4. A wall sign may not extend beyond its building's roof line.
 5. A wall sign attached to a building on its front property line may encroach upon public right-of-way by no more than 18 inches. Such a wall sign shall provide minimum clearance of eight feet, six inches.
 6. For the purpose of calculating permitted sign areas pursuant to these regulations, signs painted on the walls of buildings shall be considered wall signs.
 7. Where permitted, canopy signs are counted as wall signs when calculating total permitted sign area.
- J. **Temporary.** A maximum of four temporary signs permitted per lot per calendar year not to exceed 32 square feet in size and not more than 60 days per permit, after which a new sign permit application must be submitted and approved or the sign must be removed by the owner. Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements:
1. Such signs are subject to the permit procedures set forth in this section.
 2. Such signs are installed no earlier than 30 days before the date of the event or election and removed no later than 7 days after the date of the event or election.
 3. The maximum size of such signs is 10 square feet when located in any residential zoning district; and 100 square feet in any other zoning district.
- K. **Off-Premises.** Off-premises temporary banners are allowed in zoning districts B-1 and B-2 at one perm lot; off-premises signs are allowed in zoning districts B-3, FX and I-1 at one per lot; provided such sign conforms to any overlay district regulations, follows the sign type, quantity, schedule, setback, and permitting requirements for the district, and is advertising a business within the city of Ashland or its one-mile zoning jurisdiction.
- L. Signs hung from, applied upon, or attached to canopies and awnings shall be no closer than 84 inches from the bottom edge of the sign or canopy to the walking surface or grade below.

Section 7.04 Sign Schedule

- A. Signs shall be permitted in conjunction with permitted uses located upon the premise in which said signs are located in the various districts according to the following schedule:

Sign Schedule

<u>Zoning District</u>	<u>FW</u>	<u>TA</u>	<u>RE</u>	<u>RT</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>FX</u>	<u>I-1</u>	<u>PD</u>	<u>CO</u>	<u>PUB</u>
<u>Sign Type</u>															
Announcement	-	C	C	+	+	+	+	+	C	+	+	+	C	+	+
Billboard	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-
Elevated/Roof	-	-	-	-	-	-	-	+	C	+	+	+	C	-	-
Ground	-	C	C	+	C	C	C	+	C	+	+	+	C	+	C
Name Plate	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+
Pole	-	C	-	-	-	-	-	+	C	+	+	+	+	C	-
Projecting	-	C	C	-	-	-	-	+	C	+	+	+	C	C	C
Real Estate	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+
Wall	-	C	C	+	-	-	-	+	C	+	+	+	C	+	C
Temporary	-	+	-	+	-	-	-	+	+	+	+	+	+	+	+

+: permitted

-: not permitted

C: Conditional Use

ARTICLE 8 SUPPLEMENTAL REGULATIONS

Section 8.01 Off-Street Automobile Storage

- A. 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 two hundred fifty (250) square feet per parking space shall be used, unless otherwise provided for. The following are the minimum requirements for specific uses:
 - 1. Dwellings - Two (2) spaces for each dwelling unit connected with paving to the street or alley.
 - 2. Tourist Accommodations - One (1) space for each room offered for tourist accommodations.
 - 3. Theater, Auditorium, Church, Stadium, or Other Place of Public Assembly - One (1) space for each four (4) seats available at maximum capacity.
 - 4. Industrial Plant - .75 times the maximum number of employees on the premises at any one time.
 - 5. Apartments, Townhouses, and two or more unit multi-family dwellings – Two (2) paved spaces for each dwelling unit.
- B. If vehicle storage space or standing space required above cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Building Official, such space may be provided on other off-street property, provided such space lies within four hundred (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.
- C. All parking spaces for single-family, rooming houses, convalescent homes, apartments, businesses, townhouses, and two or more unit multi-family dwellings, and mobile homes shall be paved with asphalt or concrete and connected to the street or alley with paving, except that in the TA and RE Districts parking spaces for dwellings are not required to be connected to the roadway with paving. Parking on street right-of-way is prohibited unless hard-surfaced parking stalls.
- D. 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.
- E. In Districts R-1, R-2, R-3, RT, RE and TA required off-street parking shall be provided on the lot on which it is located the use to which the parking pertains. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot provided the lot and the lot on which the use requiring them is located are not separated by more than 300 feet at closest points, measured along a street or streets.
- F. 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.
- G. 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)
- H. Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances as provided below:

TYPES OF OPERATION	MINIMUM STACKING SPACE
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.

- I. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Building Official based upon comparable uses listed.

Section 8.02 Storage or parking of vehicles, boats, campers and trailers

A. Unlicensed and inoperable vehicles and equipment.

1. The storage or keeping of a boat, boat trailer, camp trailer, construction or utility trailer, and/or any other vehicle, not having a properly issued current motor vehicle license plate and registration, or any inoperable vehicle under repair for more than ten (10) days shall be prohibited on any private or public property within the zoning jurisdiction of the City of Ashland, unless otherwise provided for. This section shall not apply to personal property in a fully enclosed building; to vehicles or machinery on the premises of a business enterprise, operated in a lawful manner, when such vehicle or machinery is necessary to the lawful operation of the business; to operable off-highway farm or industrial vehicles or equipment on tracts zoned TA, RE or I-1, and used in agricultural or industrial activity conducted on the premises; or to a vehicle in an appropriate storage place or depository maintained in a lawful manner by the Municipality.
2. The storage, keeping or abandonment of parts, including scrap metals and tires, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Ashland, except in enclosed buildings or garages or where otherwise permitted by this ordinance.
3. Before the City removes a vehicle suspected of violation hereof by reason of it being inoperable the City shall give the owner of the premises upon which the offending vehicle is situated a 72 hour warning notice which may be given by either tagging the motor vehicle or by sending notice by regular mail, postage prepaid, to the occupier of the premises upon which the motor vehicle is situated. Any motor vehicle not removed from the premises within such 72 hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he/she chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the designated law enforcement agency to demonstrate within said 72 hour period. The operability of the vehicle and, if such operability is satisfactorily demonstrated, the automobile need not be removed.

B. Recreational Vehicles and Boats

1. Recreational vehicles and boats must be maintained in a clean, well-kept state.
2. Recreational vehicles may be used as temporary parking by nonpaying guests for a maximum of nine (9) consecutive days or twenty one (21) days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.

3. Recreational vehicles and boats may not be connected to utility lines for any period that exceeds thirty (30) consecutive days.
4. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.

C. Parking Requirements.

1. No motor vehicle as defined by section 60-301 of Nebraska State Statutes (or boat, camper or trailer in excess of 15 feet in length or 10 feet in height) shall be parked in the front, side or rear yard of any lot zoned residential except on paved driveways or other hard surfaced areas as designed and provided for in Article 2; provided that;
 - a. Boats, campers, trailers or any combination thereof not exceeding two may be parked in the side or rear yard of lots zoned residential from October through April of each year provided they are parked on a hard surface. A camper or boat situated on a trailer shall be considered as one vehicle.
 - b. Said boats, campers and trailers together with accessory structures shall not occupy more than thirty-five percent of the required rear yard.
 - h. Notwithstanding the foregoing, it shall be permissible to park motor vehicles in the yards of residential lots on areas which are paved as driveways or otherwise hard surfaced for a period not to exceed 72 hours, when on-street parking is illegal.
5. There shall be no more than two vehicles displayed for private sale at any time on any residential lot. The display of vehicles for sale both commercially and privately within any other district shall require the appropriate permits.
6. Any motor vehicle, boat, camper or trailer parked, stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle, boat, camper or trailer is situated, and if the owner is different than the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interest at the highest legal rate that the City is authorized by law to collect on special assessments.

Section 8.03 Schedule of Minimum Off-Street Parking and Loading Requirements

Use	Parking Requirements
Adult Establishments	One space per two persons of licensed capacity
Agricultural Sales / Service	One space per 500 s.f. of gross floor area
Amusement Arcades	One space for each 100 s.f. of gross floor area, in addition to one space for each employee on the max. shift
Animal Specialty Services	One space per 300 sq. ft. of gross floor area
Assisted-living facilities	One space per independent living dwelling unit and 0.5 space per assisted living dwelling unit plus one space per employee on the largest shift
Automotive Rental / Sales	One space per 500 s.f. of gross floor area
Automotive Repair Services	Three spaces per repair stall
Bars, Taverns, Nightclubs	Parking equal to 30 percent of licensed capacity
Boarding Houses / Bed and Breakfasts	One space per rental units
Bowling Alleys	Four spaces per alley
Campground	One space per camping unit
Churches, Synagogues, and Temples	One space per four seats in main worship area
Lodges, Social Clubs, fraternal organizations	One space per 500 s.f. of gross floor area
College/University	Eight spaces per classroom plus one space per employee
Commercial Recreation	One space per three persons of licensed capacity
Communication Services	One space per 500 s.f. of gross floor area
Construction Sales / Service	One space per 500 s.f. of gross floor area
Convalescent and Nursing Home	One space per three beds plus one space per employee on the largest shift
Convenience Store with limited fuel sales	One space per 200 s.f. of gross floor area; spaces adjacent to fuel pump are included in total number
Services	largest shift
Day Care (Child Care Center)	One space per employee plus one space or loading stall per each ten persons of licensed capacity
Duplex	Two spaces per dwelling unit
Educational Uses, Nursery	Parking spaces equal to 20% capacity of students
Educational Uses, Primary facilities – Kindergarten, Elementary School, Junior High	Two spaces per classroom
Educational Uses, Secondary facilities –High School	10 spaces per classroom plus one space per employee
Equipment Rental / Sales	One space per 500 s.f. of gross floor area
Food Sales (general)	One space per 200 s.f. of gross floor area
Food Sales (limited)	One space per 300 s.f. of gross floor area
Funeral Homes and Chapels	Eight spaces per reposing room
General Retail Sales establishments	One space per 200 s.f. of gross floor area
Group Care Facility	One space per four persons of licensed capacity
Group Care Home	One space per four persons of licensed capacity
Guidance Services	One space per 300 s.f. of gross floor area
Health Club	One space per 200 s.f. of gross floor area, plus one space for each employee on peak shift.
Hospitals	One space per two licensed beds
Hotels and Motels	One space per rental unit, plus one space per employee on largest shift.
Industrial Uses	.75 times the maximum number of employees on the premises at any one time
Laundry Services	One space per 200 s.f. of gross floor area
Libraries	One space per 500 s.f. of gross floor area
Medical Clinics	Five spaces per staff doctor, dentist, chiropractor
Mobile Home Park	Two per dwelling unit
Multi-family / Apartments / Condominiums	One and a half spaces per bedroom for efficiencies and one bedroom units, otherwise one space per bedroom Note: This does not include detached garages.
Offices and Office Buildings	One space per 200 s.f. of gross floor area

Recreational Facilities	One space per four occupants or, in the case of a nonstructural facility, one space per four persons the facility is intended to accommodate.
Residential (Single-family, attached and detached)	Two spaces per dwelling unit with one required to be enclosed
Restaurants (General)	Parking equal to 30 percent of licensed capacity
Restaurants w/ drive-thru	Greater of the two: One space per 40 s.f. of dining area, or One space per 150 s.f. of gross floor area; plus five stacking spaces for drive-thru window.
Roadside stands	Four spaces per stand
Self-Service Storage Facilities	Two spaces at the rental office or 1.5 spaces per employee, whichever is greater.
Service Oriented Establishments	One space per 200 s.f. of gross floor area
Special and Vocational Training	One space per 500 s.f. of gross floor area
Theaters, Auditoriums, and Places of Assembly	One space per five people in designed capacity
Veterinary Establishments / Pet Health Services	Three spaces per staff doctor
Warehousing	One per 2,000 s.f. of gross floor area
Wholesaling / Distribution Operations	One space per two employees on the largest shift
Winery	One space per 300 square feet of total floor area

Gross Floor Area of Use (sq. ft.)	Number of Required Loading Spaces
5,000 or less	None
5,001 – 25,000	1
25,001 – 75,000	2
75,001 – 150,000	3
Over 150,000	4 plus one for each additional 100,000 s.f

Section 8.04 Off-street Parking: Shared Parking requirements

- A. Notwithstanding the provisions of Section 8.03, in cases of shopping centers having 400,000 or more square feet of gross floor area and 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 Building Official after a recommendation by the Planning Commission.
- B. Where convention centers, conference centers, assembly halls, ballrooms, or other similar facilities are built in conjunction with a hotel, office park, or shopping center, the Building Official, after receiving a recommendation from the Planning Commission may permit the construction of fewer parking spaces, due to overlapping usage of a portion of the parking spaces and request for a decrease in parking spaces.

Section 8.05 Off-Street Parking: Parking for Individuals with Disabilities

- A. 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.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
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

B. Except as provided to Section 8.05B(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 8.05D of this Ordinance. The vertical clearance at such spaces shall comply with 8.05E 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 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 8.05E of this Ordinance.
3. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 8.05 of this Ordinance shall be provided in accordance with 8.05B(1) of this Ordinance; except as follows:
 - A. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
 - B. 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.
4. Valet parking: valet parking facilities shall provide a passenger loading zone complying with 8.05B of this Ordinance located on an accessible route to the entrance of the facility.

C. 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.

1. 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.
2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

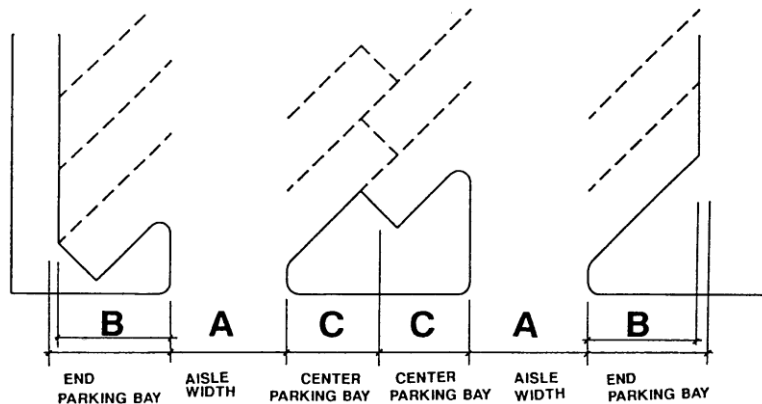
D. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 8.05B(1) shall have an additional sign “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

- E. 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 8.05B(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).
- F. 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 8.06 Off-Street Parking Design Criteria

- A. Standard parking stall dimensions shall not be less than 9 feet by 20 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
Aisle Width (A)			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width (B)			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
Center Parking Bay Width (C)	18 feet	18 feet	16 feet



- B. Minimum dimensions for a parallel parking space shall be nine feet by 23 feet
- C. 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 Building Official and City Engineer

Section 8.07 Home Based Businesses and Occupations

- A. The following are the minimum standards required for a Home Business:
1. No external evidence of the home business with the exception of one unlighted nameplate of not more than two square foot in area, which may designate the home business carried on within, in letters not to exceed two inches in height, and must be attached to the building wherein the home business is conducted.
 2. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
 3. No more than twenty-five percent (25%) of the home can be used for the home, not to exceed five hundred (500) square feet, can be used for the home business
 4. Employed individuals from outside the immediate family working from that site are limited to one (1). A business rendering services solely at other locations may have additional employees so long as those employees do not frequent, meet at, or disperse from the home business location.
 5. No retail sales are permitted from the site other than incidental sales related to services provided at the site.
 6. No portion of any yard shall be used for storage and/or display of product, equipment and/or supplies other than within a fully enclosed building.
 7. There shall not be a stock of goods or material on the premises in excess of one hundred twenty (120) square feet of the area of the home, none of which shall be of a flammable or hazardous nature.
 8. Additional off-street parking may be required for the business.
 9. If a home business is for a business office for services rendered at another location then not more than two (2) business or employee vehicles shall be parked on or adjacent to the home business property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home business provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.
 10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
 11. No mechanical equipment shall be used, or utilities required, except of a type that is similar in character to that customarily found in the home.
 12. No traffic shall be generated by such home business in greater volumes than would be normally generated in the neighborhood.
- B. The following are the minimum standards required for a Home Occupation:
1. Home occupations shall include, but are not limited to, occupations in which a home phone, computer, etc. are used in deriving income or sales. This includes business offices for services such as construction and/or repair, cosmetic services/sales, and photography rendered at other locations, internet business and other similar uses, art/craft making, seamstress services, professional offices such as accounting, real estate and insurance, multi-level marketing, vending services, service businesses including contracting/janitorial, music instruction, consulting, wholesale/catalogue sales, personal services such as beauty/barber shops or salons.
 2. No external evidence of the home business with the exception of one unlighted nameplate of not more than two square foot in area, which may designate the home occupation carried on within, in letters not to exceed two inches in height, and must be attached to the building wherein the home occupation is conducted.
 3. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
 4. No more than twenty-five percent (25%) of the home can be used for the home, not to exceed five hundred (500) square feet, can be used for the home occupation
 5. No person shall work from the site other than an immediate family member residing on the premises. A home occupation rendering services solely at other locations may have additional employees so long as those employees do not frequent, meet at, or disperse from the home occupation location.
 6. No retail sales are permitted from the site other than incidental sales related to services provided at the site.

7. No portion of any yard shall be used for storage and/or display of product, equipment and/or supplies other than within a fully enclosed building.
8. There shall not be a stock of goods or material on the premises in excess of one hundred twenty (120) square feet of the area of the home, none of which shall be of a flammable or hazardous nature.
9. If a home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles shall be parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home business provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business vehicles.
10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
11. No mechanical equipment shall be used, or utilities required, except of a type that is similar in character to that customarily found in the home.
12. No traffic shall be generated by such home business in greater volumes than would be normally generated in the neighborhood.

Section 8.08 Wireless Communication Towers

8.08.01 Intent:

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the City's jurisdiction, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

8.08.02 Definitions:

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

1. **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. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
3. **APPLICANT** shall mean any person that applies for a Tower Development Permit.
4. **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.

5. **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this ordinance.
6. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
7. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
 1. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate zoned AR, RT, BP, BH, BG, or I-1.
 2. Any earth station antenna or satellite dish antenna of one meter or less in diameter, regardless of zoning applicable to the location of the antenna.
12. **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon recommendation of the Planning Commission and approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest. A tower development permit shall follow the same procedure as a conditional use permit and be administered the same.
14. **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

8.08.03 Location of Towers and Construction Standards

1. Towers shall be permitted by conditional uses of land in only those zoning districts where specifically listed and authorized in this ordinance.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Building Inspector and shall pay a filing fee in accordance with the Master Fee Schedule.
3. Towers shall not be permitted in the Corridor Overlay Districts.
4. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this ordinance shall conform to the Building Codes and all other construction standards set forth by the City, County, federal,

and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Building Inspector.

5. 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. When permitted in a residential district and residential land use area, the minimum lot size for towers shall be three acres.

8.08.04 **Application to develop a Tower**

Prior to commencement of development or construction of a tower, an application shall be submitted to the Building Inspector for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

8.08.05 **Tower Development Permit: Procedure**

After receipt of an application for a Tower Development Permit, the City shall schedule a public hearing before the Planning Commission, following all statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the City shall schedule a public hearing before the City Council, following all statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the City shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 6.03 of this ordinance. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

8.08.06 **Setbacks and Separation or Buffer Requirements**

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those

utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.

3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
 1. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
 2. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

8.08.07 **Structural Standards for Towers Adopted**

The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

8.08.08 **Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300 percent of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence of at least six feet in height or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

8.08.09 **Exterior Finish**

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Building Inspector as part of the application approval process. All towers which must be approved as a conditional use shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

8.08.10 **Landscaping**

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

8.08.11 **Maintenance, Repair or Modification of Existing Towers**

All towers constructed or under construction on the date of approval of this ordinance may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Non-conforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this ordinance shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.

8.08.12 **Inspections**

The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal and state law or applicable ANSI standards. Inspections shall be made by either the Building Inspector, or a duly appointed independent representative of the City.

8.08.13 Maintenance

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

8.08.14 Abandonment

If any tower shall cease to be used for a period of one year, the Building Inspector shall notify the tower owner that the site will be subject to determination of abandonment. Upon issuance of written notice to show cause by the Building Inspector, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Building Inspector shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Building Inspector, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Ashland codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

8.08.15 Satellite Dish Antennas, Regulation

Upon adoption of this ordinance, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Ashland only upon compliance with the following criteria and the issuance of a permit:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
2. Single family residences may not have more than one satellite dish antenna over 3 feet in diameter.
3. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Ashland, upon adoption of this ordinance, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

8.08.16 Amateur Radio Towers and facilities, Regulation

All amateur radio antennas, towers, and associated facilities not in compliance with the provisions for accessory structures within individual zoning districts shall comply with the standards of Section 8.08.

8.08.17 Severability

If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

Section 8.09 Keeping of Animals

Animals may be kept within the zoning jurisdiction of the City of Ashland subject to the following restrictions and as per Municipal Code Article 2 unless otherwise restricted in these regulations. All dogs require a license. Maximum number of dogs allowed per residence unless by commercial or domestic kennel.

8.09.01 No more than two dogs per dwelling unit in duplex or multi-family buildings.

8.09.02 The keeping of exotic animals is prohibited.

8.09.03. Keeping of poultry in identified residential districts and on residential zoned property consisting of detached single family dwelling, subject to the following:

- A. Any person who keeps hens in the City of Ashland or its zoning jurisdiction shall obtain a permit from the City prior to acquiring the hens. Application shall be made to the Permits and Inspections Division and the fee for the permit shall be as determined by Council resolution.

- B. Permits expire and become invalid five (5) years after the date of issuance. A person who wishes to continue keeping hens shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit to include a plot plan showing the building envelope in which the coop may be located.
- C. Persons in any zoning district of the City of Ashland may keep hens on his/her property for the sole purpose of participating in livestock exhibitions such as 4-H or similar programs upon approval of a permit and in accordance with the provisions as set forth herein.
- D. A person who keeps or houses hens on his or her property shall comply with all of the following requirements:
1. No more than 7 hens may be kept on any one zoning lot.
 2. The principal use of the property shall be a single-family dwelling.
 3. No person shall keep any rooster.
 4. No person shall slaughter any hens.
 5. The hens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Such covered enclosure or coop shall contain at least four square feet of floor area per hen, and the fenced enclosure shall provide at least ten square feet of open area per hen; no coop shall exceed 120 square feet of floor area or exceed 12 feet in height.
 6. A person shall not keep hens in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.
 7. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property.
 8. All enclosures for the keeping of hens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure on another person's property.
 9. All feed and other items associated with the keeping of hens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
 10. Eggs produced by permitted chickens may be sold by the permit holder.
 11. If the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

A person who has been issued a permit shall submit it for examination upon demand by any Police Officer or Code Enforcement Officer.

Section 8.10 Solar Panels

No solar panel shall be constructed within the residential zoning jurisdiction of the City of Ashland unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

- 8.10.01 Lot and Height Requirements: Solar panels shall conform to the required front, side, street side, and rear lot setback requirements except as provided herein:
1. A solar panel which is attached to an integral part of the principal building may project three feet into the front yard and street side yard; six feet into the rear yard; and two feet into the side yard.
 2. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard, front yard or street side yard.

- 8.10.02 **Structural Requirements:** The physical structure and connections to existing structures shall conform to the applicable Ashland building codes.
- 8.10.03 **Plot Plan:** The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- 8.10.04 **Permit Fee:** A permit fee is required. This permit fee shall be paid prior to the issuance of the building permit. The amount of the fee shall be as established in the Master Fee Schedule.
- 8.10.05 **Pre-existing Solar Panels:** Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to January 1, 2015, pursuant to a valid building permit issued by the City, may continue to be utilized so long as it is maintained in operational condition.

Section 8.11 Performance Standards for Industrial Uses

The following standards shall be met unless there are greater standards required by the United States Environmental Protection Agency or the Nebraska Department of Environmental Quality.

- 8.11.01 **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be displayed or stored in the open, if the applicable zoning district permits. 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 outdoor storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition. However, allowable outdoor storage or display shall be visually screened from public roadways and residential properties.
- 8.11.02 **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 Ashland or Saunders County or Cass County.
- 8.11.03 **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 or in excess of eighty (80) decibels, whichever is greater. 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.
- 8.11.04 **Exterior Lighting:** Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas and public right-of-ways.
- 8.11.05 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge of waste into a storm sewer, water course, or the ground; nor should any 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 be dumped into wastewater sewerage.
- 8.11.06 **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 matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (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 six tenths (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.
- 8.11.07 **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 odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these regulations.
- 8.11.08 **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.
- 8.11.09 **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 three thousandths (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.
- 8.11.10 **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 8.12 Self Storage Units / Convenience Storage Units

- 8.12.01 Minimum lot size of the Self-Storage facility shall be two acres.
- 8.12.02 Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 8.12.03 All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
- 8.12.04 All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- 8.12.05 No storage may open into the front yards.
- 8.12.06 Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are require, a total of 35 percent of all buffers shall be landscaped.
- 8.12.07 Height limitations shall require a maximum height of 20 feet for any structure in the facility.
- 8.12.08 The perimeter of each facility shall be fully enclosed by fencing or screen walls. Perimeter fencing shall be provided at a minimum of six feet and maximum of eight feet in height, of material approved by the Building Inspector. Fencing shall be constructed behind required buffer yards.

Section 8.13 Auto Wrecking Yards, Junk Yards Salvage Yards and Scrap Processing Yards

- 8.13.01 The use shall be located on a tract of land at least 300 hundred feet from a residential district.
- 8.13.02 The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded by a solid fence or wall at least eight feet high.
- 8.13.03 The fence or wall shall be uniform in height, texture, and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the neighborhood.
- 8.13.04 The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No scrap, junk or other salvaged materials may be piled or stacked so to exceed the height of the enclosing fence or wall.
- 8.13.05 No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public Right-of-Way.
- 8.13.06 Burning of paper, trash, junk or other materials shall be prohibited.

Section 8.14 Funeral, Mortuary or Crematory Services

8.14.01 These uses shall be located on a collector or arterial street as shown in the Comprehensive Plan.

Section 8.15 Residential and Small Wind Energy Systems8.15.01 *Purpose*

It is the purpose of this ordinance to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity and that such systems are appropriately sited within Ashland's zoning jurisdiction.

8.15.02 *Definitions*

The following are defined for the specific use of this section. Additional definitions pertaining to wind energy systems are found in Section 8.16.02 herein.

1. **Building-Mounted Wind Turbine (BMWT):** a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.
2. **Decibel (db):** The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.
3. **FAA:** Federal Aviation Administration.
4. **Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
5. **Residential Wind Energy Conversion System (RWECS):** a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.
6. **Small Wind Energy Conversion System (SWECS):** a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
7. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
8. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

8.15.03 *Requirements for Residential Wind Energy Conversion System (RWECS)*

Residential wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 8.16.07 for regulations on building mounted wind turbines.

1. Wind energy towers shall to the extent possible blend into the surrounding environment and architecture, including painting to reduce visual obtrusiveness. The City Planner may require a photo of an RWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
2. RWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
3. No tower should have any sign, writing, or picture that may be construed as advertising.
4. RWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. An RWECS shall be located on a parcel that is at least one-half (1/2) acre in size.
6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed

- of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. The minimum distance between the ground and any protruding blades utilized on an RWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
 8. Compliance with FAA regulations: An RWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
 9. Compliance with the International Building Code: Building permit applications for an RWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
 10. Compliance with National Electric Code: Building permit applications for an RWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
 11. Setbacks
 - a. See Section 8.16.05 for setbacks.
 - b. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site
 12. Tower Height

The applicant shall provide evidence that the proposed height of the RWECS does not exceed the height recommended by the manufacturer or distributor of the system.

 - a. The maximum tower height is 80, unless a greater restriction is imposed by FAA regulations.

8.15.04 *Requirements for Small Wind Energy Conversion System (SWECS)*

Small wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 8.16.07 for regulations on building mounted wind turbines.

1. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to match the finish on the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The City Planner may require a photo of an SWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
2. SWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
3. No tower should have any sign, writing, or picture that may be construed as advertising.
4. SWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. An SWECS shall be located on a parcel that is at least three (3) acres in size.
6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. The minimum distance between the ground and any protruding blades utilized on an SWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
8. Compliance with FAA regulations: An SWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
9. Compliance with the International Building Code: Building permit applications for an SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.

10. Compliance with National Electric Code: Building permit applications for an SWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
11. Setbacks
 - a. See Section 8.16.05 for setbacks.
 - b. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
12. Tower Height

The applicant shall provide evidence that the proposed height of the SWECS does not exceed the height recommended by the manufacturer or distributor of the system.

 - a. The maximum tower height is 120, unless a greater restriction is imposed by FAA regulations.

Section 8.16 Commercial/Utility Grade Wind Energy Systems

8.16.01 Purpose

It is the purpose of this ordinance to promote the safe, effective and efficient use of commercial/utility grade wind energy systems and that such systems are appropriately sited within the zoning jurisdiction of the City of Ashland.

8.16.02 Definitions

The following are defined for the specific use of this section.

1. **A-weighted Sound Level (dbA):** a measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1,000 Hz and above 5,000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the mid-range of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (governed by OSHA) and community noise regulations.
2. **Aggregate Project** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
3. **Applicant:** A property owner, or any person or entity acting as an agent for the property owner, in an application for a WECS Permit under this Article.
4. **Blade Glint:** The intermittent reflection of the sun off the gloss surface of wind turbine blades.
5. **Building-Mounted Wind Turbine (BMWT):** a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.
6. **Commercial Wind Energy Conversion System (CWECS):** an electrical generating facility comprised of one or more wind turbines and accessory facilities generating capacity, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy generated will be used by a utility company for off-site use. A wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
7. **Decibel (db):** The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.

8. **FAA:** Federal Aviation Administration.
9. **Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
10. **FCC:** Federal Communications Commission.
11. **Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
12. **Furling:** A design characteristic of a wind turbine intended to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.
13. **Hub Height:** the distance measured from ground level to the centerline of the rotor.
14. **Ice Throw:** Ice build-up that is thrown by the spinning turbine blades.
15. **Meteorological Tower** shall mean, for purposes of this ordinance, a tower, including the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
16. **Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
17. **Nacelle:** A cover housing that holds all of the generating components of a WECS, such as the gearbox, drive train, rotor shaft, and brake assembly.
18. **Operator:** The person or entity responsible for the day-to-day operation and maintenance of the WECS.
19. **Public Conservation Lands** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this ordinance, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
20. **Pure Tone:** A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by five db for center frequencies of 500 Hz and above, and eight db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.
21. **Residential Wind Energy Conversion System (RWECS):** a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical

power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

22. **Rotor:** The rotating part of a turbine, including the blades.
23. **Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.
24. **Sensitive Receptor:** Structures that have occupants on a routine basis and whose occupants could be negatively affected by noise, vibration, shadow, or flicker, including those structures intended for four season human habitation (whether inhabited or not), public parks, state designated wildlife areas, the manicured areas of private recreational establishments such as golf courses or the campsites in a state approved campground, schools, daycare centers, elderly care facilities, hospitals, places of public assembly, and businesses.
25. **Shadow Flicker:** When the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment.
26. **Small Wind Energy Conversion System (SWECS):** a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
27. **Stall Control:** A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high it creates turbulence on the side of the rotor blade which is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.
28. **Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.
29. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
30. **Tower** shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
31. **Tower Height** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
32. **Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
33. **Turbine, or Wind Turbine:** see “Wind Energy Conversion System.”
34. **Upwind Rotor:** A design in which the rotor on a wind turbine tower faces into the wind.
35. **Well-designed Braking System:** The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise are avoided.
36. **Wind Energy Conservation System (WECS)** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

37. **Wind Energy Conversion System (WECS) Facility:** An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
38. **Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

8.16.03 *Requirements*

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer's certification from a professional engineer licensed in the State of Nebraska.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed CWECS not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed CWECS.
11. An Acoustical Analysis that certifies that the noise requirements within these regulations can be met.
12. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
13. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System and evidence that there will be no interference with any such commercial and/or public safety communications towers.
14. Decommissioning Plan as required by this ordinance.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.
16. A CWECS shall be located on a parcel that is at least ten (10) acres in size.
17. Setbacks identified as required in Section 8.16.05.

8.16.04 *Aggregated Projects*

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

8.16.05 Setbacks

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS (residential & small)	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	1.1 times the total height or in an Agricultural or Transitional Agricultural Districts only. In other districts, the setback shall be the distance of the fall zone, as certified by a professional engineer, + 10 feet	1.25 times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Neighboring Dwelling Units*		750 feet	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Road Rights-of-Way**	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	One times the height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Public conservation lands	NA	1320 feet	600 feet
Wetlands, USFW Types III, IV, and V	NA	1320 feet	600 feet
Other structures	NA	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other existing WECS	NA	To be considered based on: <ul style="list-style-type: none"> • Relative size of the existing and proposed WECS • Alignment of the WECS relative to the predominant winds • Topography • Extent of wake interference impacts on existing WECS • Property line setback of existing WECS • Other setbacks required Waived for internal setbacks in multiple turbine projects including aggregated projects	
River Bluffs	NA	1,320 feet	NA

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

8.16.06 Special Safety and Design Standards

All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point and the ground.
2. All CWECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a CWECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. The design of the nacelles of turbines and towers shall not use designs or construction methods that provide perches for avian predators.
6. Turbine identification:
 - a. Each site access road shall be named according to the City street (or county road) naming convention;
 - b. Each individual turbine shall be designated with a numeric or alphanumeric identifier;
 - c. Each individual turbine shall be labeled with its respective identifier and the name of the access road it is located along; and
 - d. Signage shall be provided at the intersection of each access road with the public right-of-way indicating the towers that may be found along that access road, along with subsequent signage at each road intersection within the site further indicating the direction to specific towers.

7. Wind turbines that are not designed in “accordance with proven good engineering practices” shall be prohibited. Turbines designed with the following characteristics shall be deemed in “accordance with proven good engineering practices:”
 - a. at least 3 blades;
 - b. upwind rotor;
 - c. no furling;
 - d. tapered and twisted blades; and
 - e. a well-designed braking system.
8. Color and finish:
 - a. All wind turbines and towers that are part of a CWECS shall be white, grey or another non-obtrusive single color.
 - b. Blades may be black in order to facilitate deicing.
 - c. Finishes shall be matte or non-reflective.
 - d. CWECS shall not display advertising, except for reasonable identification of the manufacturer, facility owner or operator, which may be placed on the nacelle.
9. Visual Impact
 - a. To provide visual order to a WECS facility, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind.
 - b. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.
 - c. Distinct groupings or clusters of wind turbines shall be limited to no more than 12 machines per cluster. A cluster shall be defined as a grouping of machines that are greater than 1,320 feet (¼ mile) from another grouping.
 - d. In light wind conditions, turbine rotor blades shall not be kept in a locked position except as necessary to meet operational or maintenance requirements;
 - e. Except during construction, re-construction or removal, outdoor storage is not permitted within the facility boundary except at locations that are screened from view, as shown on the approved site plan;
 - f. If turbines become inoperable for any reason, they shall be repaired as soon as reasonably possible;
 - g. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure;
 - h. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers;
 - i. The maximum total height of the turbines shall be 355 feet. Greater height, but not in excess of 400 feet, may be considered on a case by case basis if the applicant can sufficiently demonstrate that the increased height will result in increased energy efficiencies thereby reducing the overall number of turbines in the project. However, in all cases, due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.
10. Lighting:
 - a. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
 - b. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
 - c. Red pulsating incandescent lights shall be prohibited.
11. All signage shall comply with the sign regulations found in these regulations.
12. All communications and feeder lines installed as part of a CWECS shall be buried, where feasible.
13. No CWECS shall exceed 50 dbA at the nearest structure or use occupied by humans.
14. Controls and brakes:
 - a. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode.
 - b. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
15. Interference.

- a. The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any CWECS.
 - b. The applicant shall notify all communication tower operators within five miles of the proposed CWECS location upon application to the City for permits.
16. Roads, applicant shall:
- a. Identify all city, county or townships streets/roads to be used for the purposes of transporting CWECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CWECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 - b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road/facility.
 - c. Be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
17. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the CWECS.
18. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

8.16.07 *Building-Mountable Wind Turbines (BMWT)*

A BMWT and its essential support facilities shall be allowed as a permitted accessory use when attached to the principle structure in any zoning district subject to the following:

- 1. A simple site plan shall be submitted for each BMWT providing the following information:
- 2. Mounting location of the BMWT on the principle structure.
- 3. Description of the BMWT height and width, including a photo (if available) or other visual representation.
- 4. BMWT shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- 5. BMWT shall comply with the maximum height requirement of the zoning district in which it is located. Applicants proposing an installation higher than allowed by the zoning district in which it will be located may apply for a variance to the Zoning Board of Adjustment.
- 6. No BMWT may occupy, encroach or “overhang” any public right-of-way without the expressed approval of the City of Ashland.
- 7. Each BMWT installation shall require a separate building permit.

8.16.08 *Noise and Shadow Flicker*

- 1. Audible sound from a WECS facility shall not exceed 50 dbA if it is determined a pure tone is generated by the facility, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from the WECS facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 (1989) titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
- 2. The Facility owner and Operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

8.16.09 *Use of Public Roads; Bond Required*

The property owner of a CWECS facility shall be responsible for extraordinary maintenance and restoration of all City roads leading to the project site that may be damaged during construction or due to activities involving the CWECS facility unless the property owner can prove that operation of the CWECS facility was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of and to the satisfaction of the Public Works Director. The following information shall be submitted along with an application for a CWECS Permit:

- 1. Detailed maps of access and haul routes;

2. If weight and size permits are required by the Nebraska Department of Roads, a pre-construction baseline survey shall be provided to document and determine existing road conditions;
3. A report on potential road damage that may result from the construction and maintenance of the CWECS facility;
4. If, in the discretion of the Public Works Department, road damage may occur, a road damage mitigation plan and/or long-term road maintenance agreement shall be submitted, which shall include a bond, escrow, security agreement, or other form of guarantee approved by the City Attorney, in an amount determined by the Public Works Director to be sufficient to guarantee the necessary restoration or extraordinary maintenance required due to the construction or operation of the CWECS facility; and
5. If impacts may occur to public roads in other jurisdictions, the Applicant shall give notice to such other jurisdictions, providing information regarding road impacts, and submit to the Public Works Department proof that such notice was given.

8.16.10 *Decommissioning Plan; Bond Required*

1. The facility owner and operator shall, at its expense, complete decommissioning of the CWECS facility, or individual turbines, within six months after the end of the useful life of the facility or individual turbines. The CWECS facility or individual turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months. A decommissioning plan shall be submitted with an application for a CWECS permit, which shall document:
 - a. The removal of turbines, buildings, cabling, electrical components, roads, foundations to a depth of four feet within 180 days;
 - b. Grading and re-seeding all disturbed earth;
 - c. A report prepared by an independent professional engineer licensed in the State of Nebraska that estimates the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the City of Ashland after the first year of operation and every fifth year thereafter.
 - d. The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs, provided, at no point shall Decommissioning Funds be less than 25 percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained as a bond, escrow, security agreement, or other form of guarantee approved by the City Attorney.
 - e. If the facility owner or operator fails to complete decommissioning within the period prescribed herein, then the landowner shall have six months to complete decommissioning.
 - f. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed herein, then the City of Ashland may take such measures as necessary to complete decommissioning.
 - g. An easement allowing the City of Ashland access to the project site, pursuant to reasonable notice, to effect or complete decommissioning.
 - h. The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the City of Ashland concurs that decommissioning has been satisfactorily completed, or upon written approval of the City of Ashland in order to implement the decommissioning plan.
 - i. An agreement that the City of Ashland is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the facility owner or operator, or property owner, for decommissioning costs in excess of the amount guaranteed, and to file a lien against any real estate owned by the facility owner or operator, or property owner, or in which they have an interest, for the amount of the excess, and to take all steps allowed to enforce such lien.
2. Financial provisions shall not be so onerous as to render CWECS facilities unfeasible in the City of Ashland.

8.16.11 *Repair; Abandonment; Removal*

Small Wind Energy Conversion Systems: Any SWECS found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state and local safety standards, or removed within six months. If any SWECS is not operated for a continuous period of 12 months, the City shall notify the landowner by registered mail that such SWECS is deemed abandoned, and provide 45

days for a response. In their response, the landowner shall set forth reasons for the operational difficulty and provide a timetable for corrective action not exceeding six months. If the corrective action is not completed with six months, the City shall notify the landowner that such SWECS shall be removed within 12 days of receipt of the notice.

8.16.12 *Liability Insurance*

For each CWECs facility, there shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Copies of such certificates shall be made available to the City of Ashland upon request.

Section 8.17 Adult Establishments

8.17.01 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.

8.17.02 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.

8.17.02 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.

8.17.03 Regulations

1. No person shall establish, operate, or cause to be operated an adult establishment in Ashland'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 8.17.03.

Section 8.18 Outdoor Storage Containers

8.18.01 Location:

Containers shall be located to the rear 50 percent of the site. Containers shall not be located in any required setback or yard area, required landscape area, required drive aisle, driveway, or parking area. Containers shall not encroach upon spaces necessary to satisfy the minimum parking requirement, nor shall they block, impede, or divert traffic in or access to emergency, snow removal, circulation and fire lanes. Containers shall not be stacked upon one another and shall be located an appropriate distance from all structures, in accordance with the Fire Code.

8.18.02 Condition:

The exterior of the storage containers shall be kept free of rust, holes, dents, or other corrosion and shall be painted or otherwise maintained such that they are consistent with the character of adjacent buildings, and secured at all times.

8.18.03 Use:

At no time shall an outdoor storage container be used as a place of business or residence, nor shall a container house, store, or contain goods, products, or materials other than those that are accessory and essential to daily on-site use and operation of the principal building or business requesting the conditional use permit.

8.18.04 Time Period:

Permitted conditional use permits for storage containers shall be allowed for (1) year. Renewals are subject to Planning Commission and Council approval. Storage containers must be removed no later than five (5) working days after the expiration of the permit.

8.18.05 Exemptions:

The temporary use of construction trailers or containers at a building site is exempt from this requirement. Recycling containers authorized by the City of Ashland are exempt from these regulations.

Section 8.19 Wellhead Protection

It shall be unlawful for any person or persons to locate, construct, modify or perform activities in such a manner that may cause biological, chemical or radioactive contamination of underground or surface water sources supplying an existing municipal well.

It shall be unlawful for any person or persons to locate, construct, modify or perform the following items or activities within the distances specified below, said distances being horizontal distances in feet separating the existing Ashland municipal well from potential sources.

Non-Potable Water Well	1,000 Feet
Sewage Lagoon	1,000 Feet
Absorption or Disposal Field for Waste	500 Feet
Cesspool	500 Feet
Dump	500 Feet
Feedlot or Feedlot Runoff	500 Feet
Corral	500 Feet
Pit Toilet	500 Feet
Sanitary Landfill	500 Feet
Chemical or Petroleum Product Storage	500 Feet
Septic Tank	500 Feet
Sewage Treatment Plant	500 Feet
Sewage Wet Well	500 Feet
Sanitary Sewer Connection	100 Feet
Sanitary Sewer Manhole	100 Feet
Sanitary Sewer Line	50 Feet
Sanitary Sewer Line (Permanently Water Tight)	10 Feet

In the event surface runoff or underground movement from potential sources of contamination adversely affect the quality of water from such supplies, the distance separating these potential sources of contamination and the existing Ashland municipal well shall be greater than that listed above. The City of Ashland reserves the right to obtain proper distance recommendations from a qualified engineer and/or expert of their choice.

ARTICLE 9: LANDSCAPING AND FENCING REQUIREMENTS

Section 9.01 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 Ashland by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with the 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.

Section 9.02 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:

- 9.02.01 Agricultural buildings, structures and uses.
- 9.02.02 Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking is more 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.
- 9.02.03 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.
 - 1. 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.

Section 9.03 Landscaping Requirements

Landscaping shall be required and provided as follows:

- 9.03.01 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.
- 9.03.02 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.

 - 1. The required landscaped area of 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.
 - 2. 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.
 - 3. A minimum of one tree, of a minimum two inch caliper, shall be planted for every 40 lineal feet or fraction thereof.
- 9.03.03 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.

 - 1. 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.
 - 2. 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.
 - 3. A six foot solid wood and/or masonry fence or wall, may be used in lieu of or in combination with the plant materials required in section 9.04.01 (2).

9.03.04 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 or AR or RT District.

1. The landscape requirements for the rear yard shall be the same as for the side yard described in section 9.03.03.

9.03.05 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.

9.03.06 Parking Area Interior Landscaping:

Off-street parking lots, as defined in 9.05, and other vehicular use areas shall have at least five percent of the total area utilized for 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.

9.03.07 Perimeter Landscaping:

All commercial office and industrial developments, buildings, or additions thereto shall provide perimeter landscaping to include a minimum of one tree for each 40 lineal feet of street or lot frontage 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 City.

9.03.08 Exterior lighting:

Exterior lighting when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.

9.03.09 Plant Materials:

Landscape living plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.

1. 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.
2. Size. The minimum size of plant materials to be installed shall be as follows:
 - A. Deciduous trees having a mature height of 20 feet or less shall have a minimum caliper of one and one-fourth inches.
 - B. Deciduous trees having a mature height of more than 20 feet shall have a minimum caliper of one and one-half inches.
 - C. Evergreen (conifer) trees shall have a minimum height of three feet.
 - D. Deciduous shrubs shall have a minimum height of 18 inches.
 - E. Evergreen shrubs shall have a minimum spread of 18 inches.

9.03.10 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 Ashland 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.

9.03.11 Required Plans:

Upon application of a building permit, a landscape-planting plan shall be submitted to the City of Ashland for review and approval.

1. Three copies of the plan shall be submitted.
2. The plan shall include, but not be limited to, the following:
 - A. Property lines and other physical features necessary to show the proposed installation of plants.
 - B. The location and spacing of plant materials.
 - C. The scientific name, common name, plant size, quantity and planting method.
 - D. The plan shall have a scale of not more than one-inch equals 100 feet.
 - E. When necessary, existing and proposed contours shall be provided.

Section 9.04 Fences and Retaining Walls

9.04.01 General Provisions.

Fences, walls, hedges or shrubbery may be erected, placed, maintained, or grown along a lot line to a height not exceeding six (6) feet above the ground level, except that no such fence, wall, hedge or shrubbery which is located in a required front or street side yard shall exceed a height of three and one-half (3 ½) feet, unless otherwise provided for. Security fences for business or industrial uses, in other than the Downtown Commercial District, may be permitted to a height not to exceed eight (8) feet by means of a conditional use permit but must be in accordance with the front and street side yard height limitation listed above.

9.04.02 Retaining Walls.

Walls shall be constructed of either stone, block or treated wood. Use of tires, vehicle parts, and other materials are prohibited.

9.04.03 Residential Fencing. In Residential Districts, it shall be unlawful for fences, walls, or similar structures to be constructed or maintained, except as provided in this Section, and after a permit is issued by the city.

1. *Front Yard:* No fence, wall, or similar structure may be built in a front yard except as defined as an open fence and the structure shall not exceed three and one-half (3 ½) feet in height, unless otherwise provided for.
2. *Side Yard:* A fence, wall, or similar structure may be erected to a maximum height of six (6) feet.
3. *Rear Yard:* A fence, wall, or similar structure may be erected to a maximum height of six (6) feet. (See also Street Side Requirements)
4. *Street Corner Visual Triangle:* No fence shall be built within the triangle of land formed by lines beginning at the point of intersection of the two (2) street-side lot lines of the corner lot, then proceeding along such lines for a distance of twenty (20) feet, the third side of which triangle of land is formed by drawing a line between the two (2) points which are on the front lot lines, and are 20 feet distant from the point of intersection of the two (2) front lot lines, trees shall be trimmed up eight (8) feet above the ground; but in no case shall such foliage or shrubbery be planted or maintained in such triangular area which will materially obstruct the view of drivers of vehicles approaching the intersection.
5. *Property Lines:* Fences may be constructed at the property line unless otherwise stated.
6. *Support Structures:* The support structure (e.g., posts) for any fence face the interior of the lot upon which the fence is constructed.
7. *Prohibited Fences:* Electric fences and barbed wire fences are prohibited in all residential zoned districts except Agriculture Residential (AR) District.

9.04.04 Non-Residential Fencing. In the non-residential zoning districts, it shall be unlawful for fences, walls, or similar structures to be constructed or maintained, except as provided in this Section, and after a permit is issued by the city.

1. *Front Yard:* No fence, wall, or similar structure may be built in a front yard except as defined as an open fence and the structure shall not exceed three and one-half (3 ½) feet in height, unless otherwise provided for.

2. *Side Yard and Rear Yard:* The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight (8) feet. (See also Street Side Requirements)
 3. *Civic Uses in Residential Districts:* The maximum height of fences needed for security purposes, including within the front yard, installed as part of Primary and Secondary Educational Facilities, Public Works, or Park and Recreation Use Types within Residential Zoning District shall be eight (8) feet.
 4. *Waiving of Height Requirement:* The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Ashland.
 5. *Street Corner Visual Triangle:* No fence shall be built within the triangle of land formed by lines beginning at the point of intersection of the two (2) street-side lot lines of the corner lot, then proceeding along such lines for a distance of twenty (20) feet, the third side of which triangle of land is formed by drawing a line between the two (2) points which are on the front lot lines, and are 20 feet distant from the point of intersection of the two (2) front lot lines, trees shall be trimmed up eight (8) feet above the ground; but in no case shall such foliage or shrubbery be planted or maintained in such triangular area which will materially obstruct the view of drivers of vehicles approaching the intersection.
 6. *Property Lines:* Fences may be constructed at the property line unless otherwise stated.
 7. *Support Structures:* The support structure (e.g., posts) for any fence shall face the interior of the lot upon which the fence is constructed.
 8. *Barbed Fencing:* Barbed wire fences may be used in the construction of perimeter security fencing in an industrial district, for communication facilities, or for municipal facilities provided that the bottom strand of the wire shall be at least six (6) feet above ground level. The use of barbed wire in security fencing when adjacent to residential zoned property shall be by conditional use. Farm fencing constructed for agricultural purposes on parcels of land five acres or more in the AR District is exempt.
 9. *Prohibited Fences:* Electric fences are prohibited in residential districts, except in the RE District for agricultural uses.
- 9.04.05 **Facing.** The finished surface of all fences shall face toward adjoining property or street frontage. All posts, nailers and supports are to be installed on the applicant's side of the fence. 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.

9.04.06 Existing Fences. Any existing fence lawfully built before the effective date of this Ordinance may remain in place without change. Any replacement or change of such fence shall meet the requirements of this section.

Section 9.05 Screening Requirements

- 9.05.01 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.
- 9.05.02 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).
- 9.05.03 Screening required by this section shall be equivalent to the following:
 1. Solid fences or walls as approved by the City on the final development plan.
 2. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within three years after planting.
 3. 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 Section 9.03.
 4. 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 six-foot enclosure around each unit. Said enclosure shall be constructed of materials complementary to the principal structure.

5. All plant material used for screening shall meet the standards in section 9.03

Section 9.06 Installation and Maintenance of Landscaping and Screening

9.06.01 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. All above-ground landscaping material and structures located in street/road right-of-way, excluding grass, shall be located at least two (2) feet from back side of curb. The Building Inspector 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 Inspector.

9.06.02 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 a healthy condition by necessary and appropriate measures. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance, at maturity, to those items requiring replacement when feasible. Underground sprinkler systems are encouraged to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Building Inspector.

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. Turf 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.

Section 9.07 Preliminary Plan Approval

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, or preliminary site plan for development, for review and recommendation by City Staff. Said Plan shall be in sufficient detail to provide the City 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.

Section 9.08 Final Plan Approval

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the City on separate sheets for review and recommendation and approval by the City Staff along with a planting schedule at final development plan submission.

Section 9.09 Parking Lot Plan Approval

A final site development plan shall be submitted to the City with the necessary landscaping and screening required herein for each of the following types of parking lot improvements:

9.09.01 New construction.

9.09.02 Expansion of existing facilities.

9.09.03 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.

9.09.04 No parking lot shall be exempted from these regulations; unless previously exempted.

ARTICLE 10: PRESERVATION**Section 10.01 Preservation Guidelines**

Guidelines. (Based on the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings)

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
- F. 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.
- G. 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.
- H. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.
- I. 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.
- J. 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 10.02 Guidelines for Applying the Secretary of the Interior's Standards**A. THE ENVIRONMENT:**Recommended

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.

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.

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.

B. BUILDING SITE:Recommended

Identifying plants, trees, fencing, walkways, outbuildings, and other elements that might be an important part of 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.

Providing proper site and roof drainage to assure that water does not splash against the building or foundation walls, nor drain toward the building.

Not Recommended

Introducing new construction into neighborhoods that is incompatible with the character of the district because of size, scale, color, and materials.

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.

Introducing signs, street lighting, benches, new plant materials, fencing, walkways and paving materials that are out of scale or inappropriate to the neighborhood.

Not Recommended

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.

Leaving plant materials and trees in close proximity to the building that may cause deterioration of the historic fabric.

C. BUILDING: STRUCTURAL SYSTEMS

Recommended

Recognizing the special problems inherent in the structural systems of historic buildings, especially where there are visible signs of cracking, deflection, or failure.

Undertaking stabilization and repair weakening structural members and systems.

Replacing historically important structural members only when necessary. Supplementing existing structural systems when damaged or inadequate.

Not Recommended

Disturbing existing foundations with new excavations that undermine the structural stability of the building.

Leaving known structural problems untreated that will cause continuing deterioration and will shorten the life of the structure.

D. BUILDING: EXTERIOR FEATURES

(Masonry: Adobe, brick, stone, terra cotta, concrete, stucco, and mortar)

Recommended

Retaining original masonry and mortar, whenever possible, without the application of any surface treatment.

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.

Duplicating old mortar in composition, color, and texture.

Not Recommended

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 mortar joints that do not need pointing. Using electric saws and hammers to remove mortar can seriously damage the adjacent brick.

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.

Recommended

Duplicating old mortar in joint size, method of application, and joint profile.

Repairing stucco with a stucco mixture that duplicates the original as closely as possible in appearance and texture.

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.

Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.

Replacing missing significant architectural features, such as cornices, brackets, railings, and shutters.

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

Not Recommended

Repointing with mortar joints of a differing size or joint profile, texture or color.

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

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.

Removing architectural features such as cornices, brackets, railings, windows architraves, and doorway pediments.

Removing paint from masonry surfaces indiscriminately. This may subject the building to damage and change its appearance.

E. WOOD: CLAPBOARD, WEATHERBOARD, SHINGLES AND OTHER WOODEN SIDINGRecommended

Retaining and preserving important architectural features, whenever possible.

Not-Recommended

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.

F. ARCHITECTURAL METALS: CAST IRON, STEEL, PRESSED TIN, ALUMINUM, ZINCRecommended

Retaining original material, whenever possible.

Not Recommended

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.

G. ROOFS AND ROOFING:Recommended

Preserving the original roof shape.

Not Recommended

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.

Applying new roofing material that is inappropriate to the style and period of the building and neighborhood.

Providing adequate roof drainage and insuring that the roof materials provide a weather-tight covering for the structure.

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.

Replacing deteriorated roof coverings with new material that matches the old in composition, size, shape, color, and texture.

Stripping the roof of architectural features important to its character.

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.

H. WINDOWS AND DOORS:Recommended

Retaining and repairing existing window and door openings including window sash, glass, lintels, sills, architraves, shutters, doors, pediments, hoods, steps, and all hardware.

Duplicating the material, design, and the hardware of the older window sash and doors if new sash and doors are used.

Installing visually unobstructive storm windows and doors, where needed, that do not damage existing frames and that can be removed in the future.

Using original doors and door hardware when they can be repaired and reused in the future.

I. ENTRANCES, PORCHES, AND STEPS:Recommended

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.

Repairing or replacing, where necessary, deteriorated architectural features of wood, iron, cast iron, terra cotta, tile, and brick.

J. EXTERIOR FINISHES:Recommended

Discovering the historic paint colors and finishes of the structure and repainting with those colors to illustrate the distinctive character of the property.

Not Recommended

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.

Altering the size of window panes or sash. Such changes destroy the scale and proportion of the building.

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.

Installing plastic, canvas, or metal strip awnings or fake shutters that detract from the character and appearance of the building.

Discarding original doors and door hardware when they can be repaired and reused in place.

Not Recommended

Removing or altering porches and steps that are appropriate to the building's development and style.

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.

Not Recommended

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

Recommended

Keeping new additions and adjacent new construction to a minimum, making them compatible in scale, building materials, and texture.

Designing new work to be compatible in materials, size, scale, color and texture with the earlier building and the neighborhood.

Using contemporary designs compatible with the character and mood of the building or the neighborhood.

Protecting architectural details and features that contribute to the character of the building.

Placing television antenna and mechanical equipment, such as air conditioners, in an inconspicuous location.

Not Recommended

Designing new work which is incompatible with the earlier building and the neighborhood in materials, size, scale, and texture.

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.

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.

Adding new floors or removing existing floors that destroy important architectural details, features and spaces of the building.

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

Recommended

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.

Utilizing early mechanical systems, including plumbing and early lighting fixtures, where possible.

Installing the vertical runs of ducts, pipes, and cables in closets, service rooms, and wall cavities.

Insuring adequate ventilation of attics, crawlspaces, and cellars to prevent moisture problems.

Installing thermal insulation in attics and in unheated cellars and crawlspaces to conserve energy.

Not Recommended

Causing unnecessary damage to the plan, materials, and appearance of the building when installing mechanical systems.

Attaching exterior electrical and telephone cables to the principal elevations of the building.

Installing the vertical runs of ducts, pipes, and cables in places where they will be a visual intrusion.

Concealing or making invisible mechanical equipment in historic walls or ceilings. Frequently this concealment requires the removal of historic fabric.

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.

ARTICLE 11: BOARD OF ADJUSTMENT

Section 11.01 Members, Terms and Meetings

Pursuant to Section 19-908, Reissue Revised Statutes of 1943 (in full): 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. After September 9, 1995, the first vacancy occurring on the board of adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 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 11.02 Appeals to Board, Record of Appeal, Hearings and Stays

As provided in Section 19-909, Reissue Revised Statutes of 1943 (in full): 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 11.03 Powers and Jurisdiction on Appeal

The Board of Adjustment shall have the following powers:

- 11.03.01 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;
- 11.03.02 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
- 11.03.03 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. Variances are valid for 12 months from date of approval or until such structure requiring the variance has been constructed, whichever is less.

The Board of Adjustment shall authorize no such variance, 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 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 11.04 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 12: AMENDMENTS

Section 12.01 Amendments

Pursuant to Section 19-905, Reissue Revised Statutes of 1943 (in full): 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 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, and upon conviction thereof shall be fined not less than 50 dollars or more than 100 dollars.

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 12.02 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:

12.02.01 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 the Master Fee Schedule as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

Section 12.03 Inspections by City Staff

The provisions of this Ordinance shall be administered and enforced by City Staff, who shall have the power to make inspection of buildings or premises necessary to carry out individually assigned duties in the enforcement of this Ordinance.

Section 12.04 Building Permits

In addition to the Municipal Code of the City of Ashland, the following shall apply to all new construction and all applicable renovations and remodels within Ashland's Zoning Jurisdiction:

12.04.01 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 Building Inspector has issued a building permit for such work.

12.04.02 Issuance of a building permit. In applying to the Building Inspector 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 Building Inspector for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Building Inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the Building Inspector 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 Building Inspector 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 six months from the date of issuance unless substantial progress has been made by that date on the project described therein, or if the construction shall be discontinued for a period of six months. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

Section 12.05 Certificate of Occupancy

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Building Inspector 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 five business days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Building Inspector 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 12.06 Penalties

Pursuant to Section 19-913, Reissue Revised Statutes of 1943 (in full), 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 five hundred dollars (\$500) 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. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

Section 12.07 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 Sections 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), 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.

ARTICLE 13: 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 14: LEGAL STATUS PROVISIONS

Section 14.01 Severability

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 14.02 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 14.03 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 14.04 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 Ashland, Nebraska,

This _____ day of _____, 2016.

(Seal)

ATTEST: _____
(CITY CLERK)

(MAYOR)