

**Stanton, Nebraska**

# **Zoning Ordinance**

**Adopted by City of Stanton, Nebraska**

**April 2, 2019**

**- Ordinance No. 902 -**





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## Article 1: General Provisions; Nonconforming

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### **Section 1-1: Purpose**

The regulations for the zoning districts as set forth in this Ordinance are made in accordance with a Comprehensive Plan for the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They are designed to lessen congestion in the streets; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They are made with responsible consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Municipality. (Ref. 19-901 RS Neb.)

### **Section 1-2: Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of Stanton, Nebraska and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one (1) mile in all directions, as established on the map entitled “The Official Zoning Map of the City of Stanton, Nebraska,” as the same may be amended by subsequent annexation. Said map and amendments thereto and all explanatory matter thereof accompany and are hereby made a part of this Ordinance. Said map shall be on file and kept current in the office of the City Clerk. (Ref. 17-1001 RS Neb.)

### **Section 1-3: Interpretation**

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

### **Section 1-4: Conflict**

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the Subdivision Regulations, Building Regulations, or other official regulations or ordinances, the most restrictive shall apply. (Ref. 19-914 RS Neb.)

**Section 1-5: Regulations Application; Use**

- A. No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this Ordinance, or amendments thereto, for the district in which it is located.
- B. No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building or structure.
- C. No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street. (Ref. 19-902, 19-904.01 RS Neb.)

**Section 1-6: Definitions**

The following definitions shall be applied throughout this Ordinance. Where no definition is specified, the normal dictionary usage of the word shall apply.

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

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, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

ACREAGE shall mean any tract or parcel of land which does not qualify as a farm or development.

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".

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. The planting, cultivating, harvesting, and storage of grains, hay or plants, commonly grown in the vicinity. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten (10) acres or more in the area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.

ALLEY shall mean a public thoroughfare which affords only secondary access to property abutting thereon.

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

ALTERATION, STRUCTURAL. (see Structural Alteration)

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.

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)

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.)

APARTMENT shall mean a part of a building consisting of a room or rooms intended, designed, or used as a residence for three (3) or more families or households; also known as multi-family residence.

APARTMENT HOUSE shall mean a building arranged, intended, or designed to be occupied by three (3) or more families living independently of each other.

AUTOMOBILE; JUNK, INOPERABLE OR UNLICENSED shall mean a vehicle or vehicle parts not kept in a building or fully screened enclosed area which due to condition, mechanical defect, or state of repair, is unable to move under its own power or does not have a current Nebraska license.

AUTOMOBILE STORAGE YARD shall mean an enclosed or fenced in area that is visually screened from adjacent properties used for storing junk, inoperable or unlicensed automobiles. Storage yards shall not be operated for salvage or resale of parts.

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.

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.

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 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.

**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 below the first or ground-floor level and having less than four feet of clearance from its ceiling to the average finished grade of the building perimeter. A basement shall not be considered a story for the purposes of determining building height.

**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, 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.

BILLBOARD see Sign, Billboard.

BLOCK shall mean a tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or a combination of same.

BLOCK FRONTAGE. All of the property on one (1) side of a street between two (2) intersecting streets.

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”.

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 above grade to the highest point of the roof, measured from the highest adjoining sidewalk or ground surface within a five-foot horizontal distance at the exterior wall of the building. (Also, see Height of Building)

**BUILDING INSPECTOR** shall mean the Building Inspector of the City of Stanton, 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 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.

**CAMPGROUND** 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 a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

CHILD CARE HOME: see “Family Child Care Home I and II”.

CITY shall mean the City of Stanton, Nebraska. Also, City Council or governing body.

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.)

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 Stanton.

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

COMMISSION shall mean the Stanton 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 master plan for the improvement and development of Stanton, Nebraska, as adopted by the Planning Commission and the City in accordance with the laws of the State of Nebraska and the ordinances of Stanton.

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 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.

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.)

CONTIGUOUS shall mean the same as "Abut".

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.

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".

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

DETENTION BASIN shall mean a facility for the temporary storage of stormwater 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 DAY CARE shall mean a facility where dogs may be groomed, trained, exercised, and socialized, but not kept or bred, sold, or let for hire.

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.

**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** 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.

**DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

1. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.

2. Permanent Foundation: 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 inches below the final ground level.

DWELLING, MODULAR (Is considered a conventional type single-family dwelling). 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.

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;
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, steel, or rock;
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.

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 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 UNIT One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

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.

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.

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”.

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.

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) two unrelated people; (3) two 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.

FAMILY CHILD CARE HOME I shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

FAMILY CHILD CARE HOME II shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

FARM an area containing at least 20 acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

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.

FEEDLOT shall mean a lot, yard, corral or other area in which livestock are confined, primarily for the purpose of feeding and growth prior to slaughter.

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, 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 building and/or structure used for the temporary retail sale and storage of fireworks.

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 8-2 of this Ordinance.

FLOOD PLAIN see Section 8-2 of this Ordinance.

FLOODWAY see Section 8-2 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. All horizontal dimensions shall be taken from the exterior faces of walls.

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. See also Lot Frontage and Street Frontage.

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.

**GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**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.)

**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.

**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.



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

HEIGHT OF BUILDING shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a 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.

HOME OCCUPATION shall mean an “in-home” or “home based” business, industry or service (not including uses defined as Adult Entertainment Establishment) operating from a residential dwelling. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property in all residential zoning districts.

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 but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

IMPERVIOUS SURFACE shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as rock, gravel, or clay and conventionally surfaced streets, sidewalks, parking lots, and driveways.

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.

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.

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 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. For motor vehicles, see "Automobile Wrecking Yard".

KENNEL, BOARDING AND TRAINING shall mean any lot or premises on which three or more dogs, cats 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 three or more dogs, cats or non-farm/non-domestic or any combination thereof (more than two dogs and two cats), at least four months of age, are groomed, bred, boarded, trained, or sold for a fee.

KENNEL, PRIVATE shall mean the keeping, breeding, raising, showing or training of two or fewer dogs, cats, or non-farm/non-domestic or any combination thereof (not exceeding two dogs and two cats), over four months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.

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.

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 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.

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 or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of 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 abutting at least one public street or right-of-way, two thoroughfare easements, or one private road.

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

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

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 horizontal distance between the front and rear lot lines. Corner lots shall provide at least one dimension equal to the required lot depth prescribed in the affected zoning district.

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

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 an unimproved county road. 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 which has frontage on one street only.

LOT LINE shall mean the property line bounding a lot.

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

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, NON-CONFORMING 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.

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.

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 Stanton City Council.

MASTER FEE SCHEDULE shall mean a fee schedule maintained by the City of Stanton 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.

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.

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

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

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 shall mean a building or use, or portion thereof, which was lawful when established but which does not conform to subsequently established zoning regulations.

NON-CONFORMING 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 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 farmstead of twenty acres or more which produces one thousand dollars 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)

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 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.



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.

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 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, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than 9 feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

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 Stanton, Nebraska.

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 Stanton, Nebraska.

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

PLAT shall mean a map which delineates the subdivision of a quantity of land. A plat commonly shows lots, blocks, streets and other features relevant to the development and improvement of the property.

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.

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)

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.

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, amphitheaters, 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 40 feet in overall length, 8 feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

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.

REINSPECTION 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.

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

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, 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.

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 stormwater 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.)

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

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.

**SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line.

**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.

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

**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 between a height of 30 inches and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 60 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 60-foot distance shall be increased to at least 90 feet for each arterial leg of the intersection. 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.

**SIGN** see Section 6.3 and 6.4 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 a 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 a 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.

**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.

**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.

**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.

STORY shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

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 highway which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development as designated in the Comprehensive Plan.



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

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, 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 street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets as designated in the Comprehensive Plan.

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, walks, tennis courts, and similar recreation 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.

**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.

**TATOO PARLOR / BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.

**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

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.

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.

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.

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, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

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.

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 shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

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.

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.

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.

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 highway setback 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.

ZONED LOT (see Lot, Zoning)

ZONING ADMINISTRATIVE OFFICER 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 an area delineated on a zoning map for which uniform use regulations governing the use, height, area, size, and intensity of the use of buildings, land, and open spaces about buildings are specified

ZONING DISTRICT, CHANGE OF shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.

## Article 2: Administration and Enforcement

- 2-1: Responsibility
- 2-2: Permits and Certificate of Zoning Compliance
- 2-3: Fees
- 2-4: Legal Status, Separability
- 2-5: Repeal of Conflicting Ordinances
- 2-6: Penalties and Remedies

### **Section 2-1: Responsibility**

The provisions of this Ordinance shall be enforced by the Zoning Administrator appointed by the governing body. Appeal from the decision of the Zoning Administrator may be made to the Board of Adjustment as provided herein. (Ref. 19-909, 19-913 RS Neb.)

### **Section 2-2: Permits and Certificate of Zoning Compliance**

A Building /Zoning Permit shall be required to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land as herein specified. It shall be the duty of the Zoning Administrator to issue a Building/Zoning Permit if the building or other structure and the proposed use thereof, or the proposed use of the land or premise, conforms with all of the requirements herein set forth. (Ref. 19-902 RS Neb.)

### **Section 2-3: Fees**

Before any action shall be taken as provided in this Article, the party or parties proposing a change in the zoning regulations or district boundary, shall deposit with the City a fee set by resolution of the City Council to cover the approximate cost of this procedure, and under no condition shall said fee or any part thereof be refunded for failure of said change to be adopted by the City Council.

### **Section 2-4: Legal Status, Separability**

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **Section 2-5: 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 2-6: Penalties and Remedies**

Any person, firm, or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred (\$100.00) dollars. Each and every day during which such illegal locating, erection,



construction, reconstruction, enlargement, change, maintenance, or use continues after receiving written notice of violation may be deemed a separate offense.

In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Zoning Administrator, or any other appropriate Municipal authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation. (Ref. 19-913 RS Neb.)

**Section 2-7: Effective Date and Adoption**

This Zoning Ordinance of the City of Stanton shall take effect and be in force from and after its passage and publication according to law.

## Article 3: Board of Adjustment

- 3-1: Members and Terms
- 3-2: Meetings
- 3-3: Appeals to Board, Board of Adjustment Hearings and Stays
- 3-4: Powers and Jurisdiction on Appeal
- 3-5: Appeals to District Court

### **Section 3-1: Members and Terms**

The Board of Adjustment shall consist of 5 regular members, plus 1 additional member designated as an alternate who shall attend and serve only when 1 of the regular members is unable to attend for any reason, each to be appointed for a term of 3 years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. The first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area if the Board does not already include such a person. Thereafter, at all times, at least 1 member of the Board of Adjustment shall reside outside of the corporate boundaries of the city but within its extraterritorial zoning jurisdiction.

### **Section 3-2: Meetings**

The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914. Meetings of the Board of Adjustment 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.

(Neb. RS 19-908)

### **Section 3-3: Appeals To Board, Record of Appeal, Hearings and Stays**

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 the 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 appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice 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 by attorney.

(Neb. RS 19-909)

### **Section 3-4: Powers and Jurisdiction on Appeal**

- A. The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the City Council, have only the following powers:
1. To hear and decide appeals when 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, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception under Neb. RS 19-929(3);
  2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and
  3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, 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 enacted regulation under Neb. RS 19-901 and 19-903 to 19-904.01 and divisions (C) and (F) 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 any ordinance or resolution.
- B. No such variance shall be authorized by the Board unless it finds that:
1. The strict application of the zoning regulation would produce undue hardship;
  2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  4. The granting of such variance is based upon reason 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 the zoning regulations.

- C. In exercising the powers granted in this division (F), the Board may, in conformity with Neb. RS 19-901 to 19-915, 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 4 members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.  
(Neb. RS 19-910)

**Section 3-5: Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the city, may present to the district court a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality. Such petition must be presented to the court within 15 days after the filing of the decision in the office of the board. Upon the filing of such petition a summons shall be issued and be served upon the Board of Adjustment, together with a copy of the petition. Return of service shall be made within 4 days after the issuance of the summons. Within 10 days after the return day of such summons, the Board of Adjustment shall file an answer to the petition which shall admit or deny the substantial averments of the petition and shall state the contentions of the Board with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing answer, the court shall proceed to hear and determine the cause without delay and shall render judgment thereon according to the forms of law. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. The appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

(Neb. RS 19-912)

## Article 4: Amendments

### 4-1: Authority to Amend

#### **Section 4-1: Authority of Amend**

This Ordinance, including the official zoning map, 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 twenty (20%) per cent of more either of the area of the lots included in such proposed changes, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet there from, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the City Council.

The City Council shall request and receive the recommendation of the Planning Commission before taking definite action on any contemplated amendment, supplement, change, modification or repeal. 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 hearing shall be given by publication thereof in a paper of general circulation at least one (1) time ten (10) days prior to such hearing. In the event that such application is not approved by the City Council, the same request or one substantially similar shall not be resubmitted to the City within six (6) months of such denial.

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 eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1-1/2) inches in height. It shall be unlawful for anyone to remove, mutilate, destroy, or change such notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. The owners or occupants of the real estate to be zoned or rezoned and all real estate located within three hundred (300) feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten (10) days prior to the date of the hearing, if they can be served with such notice within the county. Where such notice cannot be served personally upon such owners or occupants in the county, a written notice of such hearing may be mailed to such owners or occupants addressed to their last known address at least ten (10) days prior to such hearing.

**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 within the city zoning jurisdiction, or (2) in the event additional or different types of zoning districts are proposed, whether or not such**

**additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the city, but only the requirements of the first paragraph of this Section shall be applicable.**

## Article 5: Nonconforming Uses and Structures

- 5-1: Nonconforming Lots of Record
- 5-2: Nonconforming Structures
- 5-3: Nonconforming Uses
- 5-4: Repairs and Maintenance for Nonconforming Uses
- 5-5: Conditional Use Permit Not Nonconforming Uses

### **Section 5-1: Nonconforming 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 5-2: Nonconforming Structures.**

- A. Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable 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.
- B. Enlargement, Repair, Alterations: Any such structure described in Section 5-2A, may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by a Conditional Use Permit as specified in the District.
- C. Damage or Destruction: In the event that any structure described in Section 5-2, is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 5-1, whichever is applicable. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
- D. 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 5-3: Nonconforming Uses.**

- A. Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
  2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
  3. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
  4. Maintaining livestock shall be prohibited except in the Transitional Agriculture District. Where such animals exist as lawfully non-conforming, they may continue provided that there is no increase in number and discontinuance of more than six (6) months shall constitute abandonment of such use and such use shall not thereafter be re-established.
- B. Nonconforming Uses of Structures: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
  2. Any nonconforming use may be extended throughout many parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
  3. If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
  4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
  5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;



6. Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Section 5-4: Repairs and Maintenance for Nonconforming Uses.**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six (6) 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.
- B. 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 5-5: Conditional Use Permit Uses Not Nonconforming Uses.**

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

## **ARTICLE 6: CONDITIONAL USE PERMITS**

- 6-1: General Provisions
- 6-2: Application Requirements for Conditional Use Permits
- 6-3: Public Hearing
- 6-4: Decisions
- 6-5: Standards

**Section 6.01 General Provisions.** The city council may, after referral to and recommendation from the Planning Commission where a Public Hearing was held, which has been published in a legal paper of general circulation one (1) time at least ten (10) days prior to such Public Hearing, 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 city 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 city 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. Conditional use permits shall be subject to an on-site review one (1) year after approval by the city council. Uses found to be in violation of the Conditional Use Permit may be subject to fines and termination of the Conditional Use Permit

**Section 6.02 Application Requirements 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 for a conditional use permit with the City Clerk upon forms prescribed for that purpose, at least thirty (30) days prior to the date of any review. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

**Section 6.03 Public Hearing.** Before issuance of any conditional use permit, the city 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 Public Hearing has been given by publication in a paper of general circulation in the City of Stanton, one (1) time at least ten (10) days prior to such Public Hearing.

**Section 6.04 Decisions.** A majority vote of the city council shall be necessary to grant a conditional use permit. Construction or substantial improvement of any authorized conditional use shall be commenced within twelve (12) months after issuance of a conditional use permit by the city council. If such construction or improvement does not occur within this time, the conditional use authorization and permit becomes null and void. The conditional use permit must state the conditions and terms and may be recommended for three (3) years. An on-site review of the property will be done one (1) year from issuance of the conditional use permit. The conditional use permit can be renewed as long as the condition(s) and terms of the permit are satisfied, however, the authorization and permit may be reviewed and revoked after a written complaint has been submitted to the city, and an investigation completed.

**Section 6.05 Standards.** No conditional use permit shall be granted unless the Planning Commission or city council finds:

- 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 adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- D. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- E. The use shall not include noise that is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- F. 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.
- G. The use shall not involve any malodorous gas or matter that is discernible on any adjoining lot or property.
- H. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.
- I. 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.
- J. 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.
- K. Prior to the granting of any conditional use, the city council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, operation and a specified time limit for the performance of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with reasonable standards and requirements. In all cases in which conditional uses are recommended, the city council shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with including, but not limited to plans, covenants, agreements, bonds, escrows and assessments.
- L. No application for a conditional use permit, which has been denied wholly or in part by the city council shall be resubmitted for a period of one (1) year from the date of said order of

denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.

- M. In the event said use is revoked, written notice shall be given the applicant stating reasons for revocation. Applicant shall have sixty (60) days from date of written intent to revoke authorization to file an appeal of said notice.
- N. No home based business operated out of structure.

## Article 7: Districts

- 7-1: Generally
- 7-2: District (TA); Transitional Agriculture District
- 7-3: District (RS); Suburban Residential District
- 7-4: District (R1); Single Family Residential District
- 7-5: District (R2); Two-Family Residential District
- 7-6: District (R3); Multiple Family Residential District
- 7-7: District (RM); Mobile Home Residential District
- 7-7: District (B1); Highway Business District
- 7-8: District (B2); Central Business District
- 7-9: District (I1); Light Industrial District
- 7-10: District (I2); Heavy Industrial District

### **Section 7-1: Generally**

#### A. District Uses.

For the purpose of this Ordinance, the City is hereby divided into eleven (12) districts, designated as follows:

- TA Transitional Agricultural District
- RS Suburban Residential District
- R1 Single Family Residential District
- R2 Two-Family Residential District
- R3 Multiple Family Residential District
- RM Mobile Home Residential District
- B1 Highway Business District
- B2 Central Business District
- I1 Light Industrial District
- I2 Heavy Industrial District
- HO Highway Overlay District
- FO Flood Plain Overlay District
- WO Wellhead Protection Overlay District

#### B. Provisions for Official Zoning Map

1. Boundaries. The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Stanton, 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 Map shall be identified by the signature of the Mayor and attested by the City Clerk. No changes shall be made on the Zoning Map except as may be required by amendments to this Ordinance. Such changes shall be promptly indicated on the Zoning Map with the Ordinance number, nature of change, and date of change noted on the map. (Ref. 19-904 RS Neb.)

2. Replacement. 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 July 7, 1998 as part of Ordinance No. 563 of the City of Stanton, Nebraska."

Unless the prior Official Zoning 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.

3. Interpretation. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:
  - a. Where district boundaries are indicated as approximately following the centerline of streets, highways, streams or rivers, street or railroad right-of-way lines or said lines extended, such lines shall be construed to be such boundaries.
  - b. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
  - c. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, railroads, or reservoirs, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by use of the scale shown on said Zoning Map.
  - d. Where a district boundary line divides a lot in single ownership, the district boundary lines shall be determined by the use of the scale or dimensions shown on the Zoning Map. (Ref. 19-904 RS Neb.)

- C. Classification of Districts Upon Annexation and Conformance with Land Use Plan. Areas annexed into the Corporate Limits of Stanton shall be zoned to conform with the Land Use Plan.

**Section 7-2: TA Transitional Agriculture District.**

Intent. This 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.

A. Permitted Uses. In the (TA) Transitional Agriculture District, buildings, structures and land shall be used only for the following purposes:

1. Single family dwellings
2. Public park and recreation areas, playground, libraries, museums, fire stations, community centers, commercial camping areas, forest and conservation areas, including flood control structures, commercial uses and campgrounds under franchise of the County or State government agencies
3. Golf course, private country clubs, but not including commercial miniature golf, motorized cart tracks, and similar uses on not less than ten (10) acres
4. Bed and Breakfast Inn, Boarding and lodging houses, Group housing project – See Article 9 for requirements
5. Agricultural farms, horticulture and orchards, truck gardens, plant nurseries, green houses, grain storage facilities, and other agricultural uses, and roadside stands for the sale and distribution of agricultural products and products produced on the premises, excluding chemical sales; provided that any building shall be at least 50 feet from lot lines and 100 feet from center of county road.
6. Outside of the city limits – raising and feeding of livestock up to 25 animal units, provided not more than one (1) animal unit for the first acre of land, and one (1) additional animal unit for every two (2) additional acres of land.
7. Church, school, private schools, including nursery, pre-kindergarten, play, special schools, colleges, or other public building
8. Hospitals, clinics, nursing homes, retirement homes, and institutions (but not including penal or mental institutions), including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off street parking space will be provided.
9. Small wind energy systems – See Article 9 for regulations

B. Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses – structure may be built in any order.
2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work, but for no more than one year
4. Accessory buildings 64 square feet or less do not require a permit
5. Additional Regulations provided in Article 9 and Article 11 of these regulations

- C. Area, yard, lot, and height requirements for this district shall be:
1. Minimum lot size shall be five (5) acres with a minimum width of three hundred (300) feet
  2. Minimum yard requirements:
    - a. Front yard depth – not less than thirty-five (35) feet from the front of the property line or one hundred (100) feet from the centerline of a county road, whichever is greater
    - b. Side yard depth – not less than fifteen (15) feet
    - c. Rear yard depth – not less than thirty-five (35) feet
  3. The maximum height of primary structure in this district shall be thirty-five (35) feet or two and one half (2 ½) stories
  4. No septic system or private drinking water wells are allowed in the city limits
  5. Outside city limits:
    - a. Private well and private septic system lot area - 30 acres
    - b. Public water and private septic system lot area – 1.5 acres
- D. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:
1. Commercial or private recreation areas and facilities, such as water parks, lakes, ponds, country clubs, gun clubs
  2. Radio, television and communication towers and transmitters – See Article 9 for requirements
  3. Mortuaries and funeral homes, cemeteries
  4. Mobile Home Parks – See Article 7 Section 6 for requirements
  5. Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept may be closer than six hundred (600) feet to any residential district and having a minimum lot area of ten (10) acres; provided it is located outside the city limits
  6. Private stable and facilities for housing animals and fowl for non-commercial purposes provided the buildings shall be a distance of six hundred (600) feet from any residential district and having a minimum lot area of ten (10) acres; provided it is located outside the city limits
  7. Private and commercial kennels and facilities on not less than five (5) acres, for the raising, breeding, and boarding of dogs and other small animals providing that all buildings and facilities be at least three hundred (300) feet from the property line and six hundred (600) feet from any residential district
  8. Extraction of sand, gravel, or other raw material
  9. Community sewage disposal facilities
  10. Utility substations, pumping stations, water reservoirs, and telephone exchanges; Overhead and underground utility main transmission lines including but not limited to water, sewer, power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs, and storage buildings of a size of up to 2500 square feet which uses are incidental to aforementioned uses.



11. Construction batch plants that are temporary in nature, for no more than 9 months
12. Tiny houses
13. Adult establishments

**Section 7-3: RS Suburban Residential District:**

Intent. The Suburban Residential 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.

- A. Permitted Uses. In the (RS) Suburban Residential District, buildings, structures and land shall be used only for the following purposes:
1. Single family dwellings
  2. Public park and recreation areas, playground, libraries, museums, fire stations, community centers, forest and conservation areas, including commercial uses and campgrounds under franchise of the County or State government agencies
  3. Golf course, private country clubs, but not including commercial miniature golf, motorized cart tracks, and similar uses on not less than ten (10) acres
  4. Bed and Breakfast Inn, Boarding and lodging houses, Group housing project – See Article 9 for requirements
  5. Horticulture and orchards, truck gardens, plant nurseries, green houses, and roadside stands for the sale and distribution of agricultural products and products produced on the premises
  6. Seasonal offering for sale of agriculture products produced on the premises
  7. Small wind energy systems – See Article 9 for regulations
- B. Accessory Uses
1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes
  2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence
  3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work, but for no more than one year
  4. Accessory building side walls/ceiling height shall not be over fourteen (14) foot tall, with a maximum roof peak height of twenty (20) foot tall and have the same exterior consistent with the primary structure and the neighboring residences.
  5. Accessory buildings sixty-four (64) square feet or less do not require a permit
  6. Additional Regulations provided in Article 9 and Article 11 of these regulations
- C. Area, yard, lot, and height requirements for this district shall be:
1. Minimum lot size shall be twenty thousand (20,000) square feet with a minimum width of one hundred (100) feet for single family dwellings.
  2. Minimum yard requirements:
    - a. Front yard depth – not less than thirty-five (35) feet
    - b. Side yard depth – not less than fifteen (15) feet
    - c. Rear yard depth – not less than thirty-five (35) feet

3. Lot area coverage shall not exceed twenty (20%) percent for all dwelling structures
4. The maximum height of primary structure in this district shall be thirty-five (35) feet or two and one half (2 ½) stories
5. No septic system or private drinking water wells are allowed in the city limits
6. Outside city limits:
  - a. Private well and private septic system lot area - 3.0 acres;
  - b. Public water and private septic system lot area - 1.5 acres

D. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:

1. Church, school, private schools, including nursery, pre-kindergarten, play, special schools, colleges, or other public building
2. Utility substations, pumping stations, water reservoirs, and telephone exchanges; Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
3. Commercial or private recreation areas and facilities, such as water parks, lakes, ponds, country clubs
4. Radio, television and communication towers and transmitters – See Article 9 for requirements
5. Mortuaries and funeral homes, cemeteries
6. Hospitals, clinics, nursing homes, retirement homes, and institutions (but not including penal or mental institutions), including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off street parking space will be provided
7. Professional offices
8. Mobile Home Parks – See Article 7 Section 6 for requirements
9. Commercial camping areas
10. Private clubs, lodges and fraternities
11. Tiny Houses
12. Multiple family dwellings/apartment complex

**Section 7-4: R1 Single Family Residential District.**

Intent. This district is intended to provide for large lot residential and compatible uses; to facilitate planned extension of municipal services. Provides for single family residential uses.

- A. Permitted Uses. In the (R1) Single Family Residential District, buildings, structures and land shall be used only for the following purposes:
1. Single family dwellings
  2. Public park and recreation areas, playground, libraries, museums, community centers, forest and conservation areas
  3. Golf course, private country clubs, but not including commercial miniature golf, motorized cart tracks, and similar uses on not less than ten (10) acres
- B. Accessory Uses
1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes
  2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence
  3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work, but for no more than one year
  4. Accessory buildings may only be built on a lot with a current residence.
  5. Accessory buildings will not be taller than the dwelling or larger total sq ft than the main floor of the dwelling.
  6. Accessory building side walls/ceiling height shall not be over 10' tall, or 12' tall with a 10' door, with a maximum of 1,400 square feet and have the same exterior consistent with the primary structure and the neighboring residences.
  7. Accessory buildings 64 square feet or less do not require a permit
  8. Additional Regulations provided in Article 9 and Article 11 of these regulations
- C. Area, yard, lot, and height requirements for this district shall be:
1. Minimum lot size shall be seven thousand two hundred (7,200) square feet with a minimum width of sixty (60) feet
  2. Minimum yard requirements:
    - a. Front yard depth – not less than twenty-five (25) feet
    - b. Side yard depth – not less than seven (7) feet for one story buildings and eight (8) feet for two (2) or more story buildings
    - c. Rear yard depth – not less than thirty-five (35) feet
    - d. Lot area coverage shall not exceed thirty-five (35%) percent for all structures
  3. The maximum height of primary structure in this district shall be thirty-five (35) feet or two and one half (2 ½) stories; the maximum height of accessory building in this district shall have a maximum roof peak height of twenty (20) feet.

4. One or one and a half story single family dwellings with slab on grade or with no basement, or split level or multi-level dwelling with not more than five feet of vertical separation of floors, shall contain at least one thousand (1,000) 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 dwelling shall contain not less than seven hundred fifty (750) square feet on the floor nearest the grade or ground line.
5. Structure shall be on city water and city sewer if located within the city limits

D. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:

1. Church, school, private schools, including nursery, pre-kindergarten, play, special schools, colleges, or other public building
2. Hospitals, clinics, nursing homes, and institutions (but not including penal or mental institutions), including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off street parking space will be provided
3. Utility substations, pumping stations, water reservoirs, and telephone exchanges
4. Commercial recreation areas and facilities, such as swimming pools
5. Radio, television and communication towers and transmitters- See Article 9 for requirements
6. Home occupations / child care
7. Bed and Breakfast – See Article 9 for requirements
8. Two-family dwelling

**Section 7-5: R2 Two-Family Residential District.**

Intent. This district is intended to provide for single to two family residential development in areas with adequate public facilities and supporting uses near population centers.

- A. Permitted Uses. In the (R2) Two Family Residential District, buildings, structures and land shall be used only for the following purposes:
1. Two family dwellings
  2. Single family dwellings
  3. Hospitals, clinics, long term care facility, nursing homes, retirement homes, and institutions (but not including penal or mental institutions), including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off street parking space will be provided
  4. Public park and recreation areas, playground, libraries, museums, community centers, forest and conservation areas
  5. Golf course, private country clubs, but not including commercial miniature golf, motorized cart tracks, and similar uses on not less than ten (10) acres
- B. Accessory Uses
1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes
  2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence
  3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work, but for no more than one year
  4. Accessory buildings may only be built on a lot with a current residence.
  5. Accessory buildings will not be taller than the dwelling or larger total sq ft than the main floor of the dwelling.
  6. Accessory building side walls/ceiling height shall not be over ten (10) foot tall, or twelve (12) foot tall with a ten (10) foot door, a maximum roof peak height of twenty (20) foot tall, with a maximum of 1,400 square feet and have the same exterior consistent with the primary structure and the neighboring residences.
  7. Accessory buildings 64 square feet or less do not require a permit
  8. Additional Regulations provided in Article 9 and Article 11 of these regulations
- C. Area, yard, lot, and height requirements for this district shall be:
1. Minimum lot size shall be five thousand (5,000) square feet with a minimum width of fifty (50) feet for single family dwellings. Minimum lot size shall be 10,000 square feet with a minimum width of one hundred (100) feet for two family dwellings
  2. Minimum yard requirements:

- a. Front yard depth – not less than twenty-five (25) feet
  - b. Side yard depth – not less than seven (7) feet for one story buildings and eight (8) feet for two (2) or more story buildings
  - c. Rear yard depth – not less than thirty-five (35) feet
  - d. Lot area coverage shall not exceed sixty (60%) percent for all structures
3. The maximum height of primary structure in this district shall be thirty-five (35) feet or two and one half (2 ½) stories
  4. Structure shall be on city water and city sewer if located within city limits
- D. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:
1. Church, school, private schools, including nursery, pre-kindergarten, play, special schools, colleges, or other public building
  2. Utility substations, pumping stations, water reservoirs, and telephone exchanges
  3. Commercial recreation areas and facilities, such as water parks
  4. Radio, television and communication towers and transmitters – See Article 4 for requirements
  5. Mortuaries and funeral homes
  6. Professional offices
  7. Mobile Home Parks – See Article 7 Section 6 for requirements
  8. Multiple Family Dwelling / Apartment Complex
  9. Private clubs, lodges, and fraternities
  10. Bed and Breakfast Inn, Boarding and lodging houses, Group housing project – See Article 4 for requirements
  11. Home Occupations
  12. Tiny houses
  13. Multiple family dwelling

**Section 7-6: R3 Multiple Family Residential District.**

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.

- A. Permitted Uses. In the (R3) Multiple Family Residential District, buildings, structures and land shall be used only for the following purposes:
1. Two family dwelling, multiple family dwellings, and apartment complexes
  2. Single family dwellings
  3. Bed and Breakfast Inn, Boarding and lodging houses, Group housing project – See Article 9 for requirements
  4. Hospitals, clinics, long term care facilities, nursing homes, retirement homes, and institutions (but not including penal or mental institutions), including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off street parking space will be provided
  5. Public park and recreation areas, playground, libraries, museums, community centers, forest and conservation areas
  6. Golf course, private country clubs, but not including commercial miniature golf, motorized cart tracks, and similar uses on not less than ten (10) acres
- B. Accessory Uses
1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes
  2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence
  3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work, but for no more than one year
  4. Accessory buildings may only be built on a lot with a current residence.
  5. Accessory buildings will not be taller than the dwelling or larger total sq ft than the main floor of the dwelling.
  6. Accessory building side walls/ceiling height shall not be over ten (10) foot tall, or twelve (12) foot tall with a ten (10) foot door, a maximum roof peak height of twenty (20) foot, with a maximum of 1,400 square feet and have the same exterior consistent with the primary structure and the neighboring residences.
  7. Accessory buildings 64 square feet or less do not require a permit
  8. Additional Regulations provided in Article 9 and Article 11 of these regulations



- C. Area, yard, lot, and height requirements for this district shall be:
1. Minimum lot size shall be five thousand (5,000) square feet with a minimum width of fifty (50) feet for single family dwellings. Minimum lot size shall be 10,000 square feet with a minimum width of one hundred (100) feet for two family or multiple family dwellings
  2. Minimum yard requirements:
    - a. Front yard depth – not less than twenty-five (25) feet
    - b. Side yard depth – not less than seven (7) feet for one story buildings and eight (8) feet for two (2) or more story buildings
    - c. Rear yard depth – not less than thirty-five (35) feet
    - d. Lot area coverage shall not exceed sixty (60%) percent for all structures
  3. The maximum height of primary structure in this district shall be thirty-five (35) feet or two and one half (2 ½) stories
  4. Structure shall be on city water and city sewer if located within the city limits
- D. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:
1. Church, school, private schools, including nursery, pre-kindergarten, play, special schools, colleges, or other public building
  2. Utility substations, pumping stations, water reservoirs, and telephone exchanges
  3. Commercial recreation areas and facilities, such as water parks
  4. Radio, television and communication towers and transmitters – See Article 9 for requirements
  5. Mortuaries and funeral homes
  6. Professional offices
  7. Mobile Home Parks – See Article 7 Section 6 for requirements
  8. Private clubs, lodges and fraternities
  9. Bed and Breakfast Inn, Boarding and lodging houses, Group housing project – See Article 9 for requirements
  10. Tiny houses

**Section 7-7: RM Mobile Home Residential District**

Intent. This zoning district is created to provide for the inclusion of transportable homes or mobile home parks as a use at locations which are suitable for mobile dwellings. Mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.

- A. Permitted uses. The following principal uses are permitted in the Mobile Home Residential District (RM):
  - 1. Mobile homes
  - 2. Manufactured homes
  - 3. Mobile home park
  - 4. Publicly owned or privately-owned parks and playgrounds
  - 5. Tiny homes
  
- B. Accessory uses. The following accessory uses are permitted in the Mobile Home Residential District (RM)
  - 1. Buildings and uses customarily incidental to the permitted uses
  - 2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work, but for no more than one year
  - 3. Accessory buildings may only be built on a lot with a current residence
  - 4. Accessory building side walls / ceiling height shall not be over 10' tall, with a maximum of 900 square feet and have the same exterior consistent with the primary structure and the neighboring residences.
  - 5. Accessory buildings 64 square feet or less do not require a permit
  - 6. Additional regulations provided in Article 9 and Article 11 of these regulations
  
- C. Area, yard, lot and height and other applicable requirements for this district shall be:
  - 1. Minimum lot size shall be 45 feet wide and 100 feet deep or 4,500 square feet
  - 2. Front yard shall be a minimum of 25 feet
  - 3. Rear yard shall be a minimum of 25 feet
  - 4. Side yard shall be a minimum of 10 feet; buildings on corner lots shall provide a side yard on the street side of not less than twenty-five (25) feet, provided however this regulation shall not reduce the buildable width of a corner lot in separate ownership as the effective date of this chapter to less than thirty-five (35) feet.
  - 5. Each lot shall front on a hard-surfaced road
  - 6. Each lot shall be serviced with individually metered water service and sewer facilities
  - 7. A location for central garbage collection shall be addressed or each lot shall have their own garbage location
  - 8. Off street parking shall be provided of 2 hard surfaced parking spaces for each lot
  - 9. All mobile homes shall be skirted and placed upon a permanent foundation. Such skirting shall provide a removable access panel to provide easy access to all utility hookups located within the skirted area.

10. Mobile home parks in existence on the effective date of this chapter which provide mobile home lots having an area and/or width less than prescribed above may continue to operate with lots of existing area and width, provided that any expansion of an existing mobile home park shall in all respects comply with the terms of this section.

D. Procedure for Mobile Home Park Development

1. An applicant for mobile home park shall prepare a preliminary mobile home park plan, drawn to scale, and shall be submitted to the planning commission for its review and recommendations. Upon approval of the preliminary plan by the planning commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or alterations requested. The final plan and the planning commission recommendation shall be forwarded to the council for their review and final action. Said plan shall be designed to the following minimum standards:
  - a. The minimum park area shall be 5 acres
  - b. The minimum park width shall be 300 feet, front buffer shall be 100 feet from street line to individual trailer lot line, side buffer shall be 50 feet from side property line to individual trailer lot line, rear buffer shall be 50 feet from rear property line to individual trailer lot line.
  - c. For private streets the minimum access road width shall be 30 feet and each lot shall front on a hard surfaced road. 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. All roadways shall have unobstructed access to a public street. If public streets are created the streets are subject to the requirements of the subdivision regulations.
  - d. All roadways and sidewalks within the mobile home park shall be constructed in accordance with city standards and shall be adequately lighted. A street must be completely constructed prior to the placement of any mobile home on said street. Sidewalks shall be provided in locations where pedestrian traffic is concentrated and shall be installed along streets, to the entrance of the office or other important facilities. Sidewalks shall be 4 feet in width.
  - e. Area, yard, lot and height requirements for this district shall be as listed above in these regulations.
  - f. 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. Storm shelter shall be required and shall meet the following criteria:
    - (1) shelter space equivalent to a minimum of two persons per mobile home lot,
    - (2) designed in conformance with National Performance Criteria for Tornado Shelters by the Federal Emergency Management Agency,
    - (3) shelter 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 as directed by FEMA.

- g. Not less than 8% of total mobile home park area shall be designated and used for park, playground and recreational purposes.
  - h. A solid or semi-solid fence or wall, minimum six (6) feet high, maximum eight (8) feet high, shall be provided between the mobile home park and any adjoining property or property immediately across the alley which is zoned for residential purposes other than for mobile homes. In lieu of said 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. 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 space. The fence, wall, or landscape buffer shall be properly policed and maintained by the owner.
- E. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 6 of this ordinance:
- 1. Radio, television and communication towers and transmitters – See Article 9 for requirements
  - 2. Extraction of sand, gravel or other raw material
  - 3. Utility substations, pumping stations, water reservoirs, and telephone exchanges; overhead and underground utility main transmission lines including but not limited to water, sewer, power, telephone, gas, fuel, or terminal facilities and storage buildings of a size of up to 2500 square feet which uses are incidental to aforementioned uses.
  - 4. With a conditional use permit, height / depth / width of trailer requirements may be adjusted

**Section 7-8: B1 Highway Business District**

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.

- A. Permitted Uses. In the (B1) Highway Business District, buildings, structures, and land shall be used only for the following purposes:
1. Automobile display, sales, service, and repair.
  2. Billboard when at least fifty (50') feet from any (R) District boundary.
  3. Bus Terminals.
  4. Filling station.
  5. Motels, hotels and trailer campgrounds.
  6. Laundries and dry-cleaning establishments.
  7. Commercial greenhouse.
  9. Farm implement display or salesroom.
  10. Barber shops and beauty parlors.
  11. Professional offices.
  12. Business offices.
  13. Antique sales.
  14. Private clubs and lodges.
  15. Restaurants, night clubs, cafes, taverns.
  16. Golf driving ranges, miniature golf.
  17. Mortuaries or funeral homes.
  18. Public utilities and railroads.
  19. Frozen food lockers.
  20. Lumber yards and building material sales yards.
  21. 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.
  22. When located at least one hundred (100') feet away from any (R) District Boundary:
    - a. Bowling alley.
    - b. Drive-In restaurant or similar establishment
    - c. Drive-in theater.
    - d. Other similar place of entertainment or amusement.
- B. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 6 of this ordinance:
1. Apartments above a store or shop.
  2. Any retail business or service establishments supplying commodities or performing services such as:
    - a. Bakeries
    - b. Commercial schools
    - c. Department stores
    - d. Drug stores or pharmacies
    - e. Furniture stores

- f. Grocery stores
  - g. Gift shops
  - h. Hardware stores
  - i. Laundry pick-up and delivery stations
  - j. Offices, business and professional
  - k. Outdoor advertising signs
  - l. Parking garages
  - m. Parking lots
  - n. Plumbing shops
  - o. Restaurants (enclosed)
  - p. Self-service laundries
  - q. Taverns
  - r. Telephone exchanges
  - s. Theater (indoor)
  - t. Variety stores
3. Self-Storage Units.
  4. See section 6 for additional conditional uses.

C. Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article 11.
4. Parking as provided for in Article 10.
5. Accessory buildings 64 square feet or less do not require a permit.

D. Area, yard and height requirements for this district shall be:

1. There shall be no minimum lot size and no minimum width for commercial purposes.
2. Minimum yard requirements.
  - a. Front yard depth; not less than twenty-five (25) feet.
  - b. Side yard depth; None, with appropriate firewall, except along the side of a lot abutting a lot in any R District in which case twenty-five (25) feet shall be provided.
  - c. Rear yard depth; None, except for a lot abutting any R District in which case twenty-five (25) feet shall be provided or five (5) feet if adjacent to an alley, whichever is greater.
3. The maximum height of a structure in this district shall be forty-five (45) feet or three (3) stories.
4. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.

### **Section 7-9: B2 Central Business District**

Intent. This 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.

A. Permitted Uses. In the (B2) Central Business District, buildings, structures, and land shall be used only for the following purposes:

1. Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, beauty parlor, electrical repair or similar retail sales, services, or repairs shops.
2. Automobile, vehicle or boat repair where all inoperable or junk vehicles are kept in a screened area or enclosed building.
3. Public garage, when located at least fifty (50') feet from any (R) District boundary.
4. Business or commercial school or dancing or music academy.
5. Clinic.
6. Printing shop.
7. Automobile or trailer display or salesroom or when located at least fifty (50') feet from any (R) District, an automobile or trailer sales storage lot.
8. Lumber yard.
9. Frozen food locker.
10. Milk distributing station.
11. Undertaking establishment or mortuary.
12. Painting, plumbing, tinsmithing, upholstering or similar general service shop.
13. Gasoline filling stations.
14. Laundry pick-up and delivery stations.
15. Outdoor advertising signs.
16. Self-service laundries.
17. Taverns.
18. Telephone exchanges
19. Theater (indoor)
20. Utility substations
21. Accessory building or use customarily incident to a permitted use, including an advertising sign or bulletin board.
22. Off-street parking as required by this Ordinance.
23. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums, etc.
24. Living quarters may be located above or to the rear of commercially used property, with off street parking required

B. Accessory Uses. The following accessory uses and structures may be located in the B2 Business District:

1. Buildings and uses customarily incidental and accessory to the permitted uses.
2. Signs as permitted in Article 11.
3. Parking as required in Article 10.

4. Accessory buildings 64 square feet or less do not require a permit.
- C. Area, yard and height requirements for this district shall be:
1. There shall be no minimum lot size and no minimum width for commercial purposes.
  2. Minimum yard requirements.
    - a. Front yard depth; the building set back the width of the sidewalk.
    - b. Side yard depth; none, with appropriate firewall, except along the side of a lot abutting a lot in any R District in which case ten (10') feet shall be provided.
    - c. Rear yard depth; none, except for a lot abutting any R District in which case twenty-five (25') feet shall be provided.
  3. The maximum height of a structure in this district shall be forty-five (45') feet or three (3) stories.
  4. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.



### **Section 7-10: I1 Light Industrial District**

Intent. This district is intended 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.

A. Permitted Uses. In the (I1) Light Industrial District, buildings, structures, and land shall be used only for the following purposes:

1. Industrial uses except those permitted in the I2 Heavy Industrial District and except those which by reason of the emission of odor, dust, fumes, smoke, noise, and other obnoxious characteristics would be harmful to the public health, safety, and general welfare. Permitted uses may include uses such as:
  - a. Assembly of metal products
  - b. Building materials storage and sales
  - c. Concrete or cement product manufacture
  - d. Dying and cleaning establishments
  - e. Farm and industrial equipment sales
  - f. Laboratories
  - g. Manufacture and assembly of electrical and electronic appliances
  - h. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials such as bone, cloth, aluminum, cork, fiber, leather, glass, plastic, paper, stone, tin, rubber, and paint
  - i. Machine shop or other metal working excluding drop hammers and other noise producing tools
  - j. Grain storage bins
  - k. Stone and monument works
  - l. Storage of farm agricultural products
  - m. Truck and freight terminals
  - n. Utility substations, pumping stations and water reservoirs
  - o. Warehouses and wholesale businesses
2. Bottling work.
3. Carting, express, or storage yard.
4. Coal or coke yard.
5. Automobile storage yard, where all vehicles are kept in an enclosed and screened area.
6. Any other business, industry, or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke or noise is emitted and not more than ten (10%) per cent of the lot or tract is used for the open storage of products, materials, or equipment.
7. Off-street parking.
8. Self storage units.

B. (Reserved)

C. Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article 11.
4. Parking as provided for in Article 10.

D. Area, yard and height requirements for this district shall be:

1. There shall be no minimum lot size and no minimum width for industrial purposes.
2. Minimum yard requirements.
  - a. Front yard depth; not less than twenty-five (25) feet.
  - b. Side yard depth; none, with appropriate firewall, except along the side of a lot abutting a lot in any (R) District in which case ten (10) feet shall be provided.
  - c. Rear yard depth; none, except for a lot abutting any (R) District in which case twenty-five (25) feet shall be provided.
3. The maximum height of a structure in this district shall be forty-five (45) feet or three (3) stories.
4. A forty five (45) foot minimum height may be exceeded, if the setbacks are increased by one (1) foot for every one (1) foot increase in height.
5. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.

**Section 7-11: I2 Heavy Industrial District**

Intent. This district is intended to provide standards for area suitable for some heavy 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.

- A. Permitted Uses. In the (I2) Heavy Industrial District, buildings, structures, and land shall be used only for the following purposes:
1. Any other industrial, manufacturing, or commercial agricultural use, including cement, except those uses specifically permitted as a conditional use in this district.
  2. Contractors yard.
  3. Grain elevator.
  4. Livestock auction or sales barn.
  5. Any other use not in conflict with local or state enacted laws regulating nuisances, except as hereinafter provided.
- B. Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 6 of this ordinance. In authorizing any of the uses in this section, there may be imposed such reasonable requirements as to the landscaping, screening and other features of the development as may be deemed necessary to protect adjacent property and prevent objectionable or hazardous conditions.
1. Alfalfa dehydrating plant.
  2. Asphalt mixing, manufacture, or refining.
  3. Boiler works.
  4. Lime, gypsum, or plaster-of-Paris manufacture.
  5. Disinfectants manufacture.
  6. Exterminator and insect poison manufacture.
  7. Ethanol Plant
  8. Fat rendering.
  9. Fertilizer manufacture and bone grinding.
  10. Forage plants.
  11. Propane Storage.
  12. Auto wrecking yards or junkyard only when located inside a building or when wholly enclosed by a well-maintained wooden fence not less than eight (8) feet in height and in which the openings or cracks are less than fifteen (15%) percent of the total area.
  13. Motorized cart tracks.
  14. Oiled, rubber, or leather goods manufacture.
  15. Packing houses.
  16. Paint, oil, shellac, turpentine, or varnish manufacture.
  17. Paper and pulp manufacture.
  18. Plating works.
  19. Sausage manufacture.

20. Slaughter houses.
21. Smelters.
22. Stock car racing tracks.
23. Storage or baling or scrap paper, iron, bottles, rags, or junk.
24. Sulfuric, nitric or hydrochloric acid manufacture.
25. Tallow, grease, or lard manufacture or refining from animal fat.
26. Tanning, curing, or storage of rawhides or skins.
27. Tar distillation or manufacture.
28. Vinegar manufacture.
29. Yeast plants.
30. Adult establishments.

C. Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article 11.
4. Parking as provided for in Article 10.

D. Area, yard and height requirements for this district shall be:

1. There shall be no minimum lot size and no minimum width for industrial purposes.
2. Minimum yard requirements.
  - a. Front yard depth; fifteen (15) feet.
  - b. Side yard depth; ten (10) feet, with appropriate firewall, except along the side of a lot abutting a lot in an (R) District in which case ten (10) feet shall be provided.
  - c. Rear yard depth; twenty-five (25) feet, except for a lot abutting an (R) District in which case twenty-five (25) feet shall be provided.
3. The maximum height of a structure in this district shall be forty-five (45) feet or three (3) stories.
4. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.

## Article 8: Overlay Districts

- 8-1: District (HO); Highway Overlay District
- 8-2: District (FO); Flood Plain Overlay District
- 8-3: District (WA); Wellhead Protection Area

### **Section 8-1: HO Highway Overlay District.**

Intent. This is an overlay district. It adds certain design standards to those zoning districts located along Nebraska Highways 24 or 57 where so designated on the Land Use Map. They are designed to promote:

1. Safe traffic circulation on and off and across the highway.
2. A high quality of design and site planning.
3. Flexibility in development in order to provide an attractive, viable employment corridor.

#### A. Permitted Uses:

1. Agriculture on more than ten (10) acres.
2. Public or semi public buildings on more than ten (10) acres.
3. Any permitted use allowed in the underlying zoning district.

#### B. Area Yard and Height Requirements

1. Minimum lot size: None.
2. Minimum yard requirements:
  - a. With no parking in front: 25 feet.
  - b. With parking in front: 50 feet with no parking within the front 25 feet.

#### C. Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for herein is Section 11.
4. Parking as provided for in Article 10.

#### D. Use Limitations

1. Thirty-five percent (35%) of the required front yard shall be maintained in a landscaped yard.
2. Signs: One pole sign not to exceed fifteen (15) feet in height and one wall sign affixed to the side of a principle permitted building. Maximum size: eighty (80) square feet.
3. All new lots shall be served by a paved frontage road and may not take access directly from the Highway.

## **Section 8-2: FO Flood Plain Overlay District**

- A. Statement of Purpose. This is an overlay district placed over any zoning district within a designated flood area.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize losses due to flood hazards by applying the provisions of this ordinance to:

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

B. General Provisions.

1. **LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdiction of the City of Stanton identified on the Flood Insurance Rate map (FIRM) as numbered and unnumbered A Zones (including AE, AO, and AH Zones) and within the Zoning Districts FW and FF established in Section 3-14D of this ordinance or by the "Flood Plain Study, Elkhorn River, Volume 2, Stanton County, Nebraska, prepared by the Nebraska Natural Resources Commission, July 1987". In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop under such safeguards and restrictions as the city may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Section 3-14E, 3-14F and 3-14G.

2. **THE ZONING ADMINISTRATOR**

The Mayor and City Council shall designate a person as the Zoning Administrator 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 or on the Flood Plain Study, Elkhorn River prepared by the Nebraska Natural Resources Commission, July 1987. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of 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

their case to the Board of Adjustment and to submit their own technical evidence, if they so desire.

4. COMPLIANCE

Within the 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 the 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 Stanton 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 Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment.

C. Development Permit

1. PERMIT REQUIRED

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

2. ADMINISTRATION

a. The Zoning Administrator shall administer and implement the provisions of this ordinance.

- b. Duties of the Zoning Administrator shall include, but not be limited to:
  - (1) Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - (2) Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, State, or Local governmental agencies from which prior approval is required.
  - (3) 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.
  - (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - (5) Verify, record and maintain record of the actual elevation (in relation to mean seal level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
  - (6) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
  - (7) When floodproofing is utilized for a particular structure the Zoning Administrator shall be presented with a 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 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 Zoning 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 as the 100 Year Flood Outline or Floodway, on the Flood Plain 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 Flood Plain 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 or the 100 Year flood plain, 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 3-14F. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State, and other sources.
3. Within a floodway, no development or substantial improvement may be permitted 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.
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 or 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 floodproofed up to the regulatory flood protection elevation.
5. STORAGE OF MATERIAL AND EQUIPMENT
  - a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  - b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed

to minimize or eliminate flood damage, that 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 elevations.

F. Flood Fringe Overlay District - Including AO & AH Zones.

1. PERMITTED USES

Any use permitted in Section 3-14G shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 3-14E 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 Zoning Administrator as set forth in Section 3-14C,2b(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.
- e. Manufactured Homes

- (1) 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 fifty (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 sixty (60) feet long requiring four additional ties per side;
    - (c) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
    - (d) Any additions to the manufactured home be similarly anchored.
  - (2) Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
    - (a) Outside of manufactured home park or subdivision.
    - (b) In a new manufactured home park or subdivision.
    - (c) In a subdivision 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 3-14F,2e(1)(a).
  - (3) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 3-14F,2e(1)(b) 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 thirty-six (36) inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 3-14F,2e(1)(a).
- 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 3-14B,1 of this article are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one (1) to three (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:
  - (1) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
  - (2) All new construction and substantial improvements of non-residential structures shall:
    - (a) Have the lowest floor elevated above the highest adjacent grade at least as high as one (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 floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of buoyancy. Such certification shall be provided to the official as set forth in Section 3-14C,2b(7).
  - (3) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

**3. MINIMUM STANDARDS GOVERNING LOCATION OF OBSTRUCTIONS AND SUBSTANTIAL IMPROVEMENTS IN THE FLOOD PLAINS FOR THE BASE FLOOD.**

The following minimum standards shall apply when an obstruction is to be located or substantially improved within the floodplain of a base flood. In the event of a conflict between the following minimum standards and those in Section 3-14E, the minimum standards in Section 3-14E shall govern.

- a. Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood and provided that no utilities are installed in the structure except elevated or floodproofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

**G. Floodway Overlay District.**

**1. PERMITTED USES**

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

- a. Agricultural uses such as general farming, pasture, nurseries, forestry.
- b. Residential uses such as lawns, gardens, parking, and play areas.

- c. Non-residential 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 3-14E and 3-14F. In Zone A unnumbered, obtain, review, and reasonably utilize any flood elevation and floodway data available through Federal, State, and other sources or Section 3-14E,6(d) of this ordinance, in meeting the standards of this section.

H. Variance Procedures.

1. The Board of Adjustment, as herein established by the City, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
  2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
  3. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.
  4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and;
    - a. the danger that materials may be swept onto other lands to the injury of others;
    - b. the danger to life and property due to flooding or erosion damage;
    - c. the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - d. the importance of the services provided by the proposed facility to the community;
    - e. the necessity to the facility of a waterfront location, where applicable;
    - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
    - 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 flood waters 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.
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 (b-e below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- e. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

I. Non-Conforming Use

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - a. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
  - b. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (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.

- 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 two hundred fifty (\$250.00) dollars and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

- K. 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.
- L. 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.
- M. 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 floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of City of Stanton 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.
- N. 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.
- O. Conflicting Ordinances. This ordinance shall take precedence over conflicting Ordinances or parts of Ordinances. The Governing Body of the City of Stanton may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.
- P. Definitions. Unless specifically defined below, words or phrases used in this Flood Plain Overlay District shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this District its most reasonable application.

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

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

"Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by pending or sheet flow.

"Base Flood" means the flood having one percent chance of being equaled or exceeded in any given year.

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

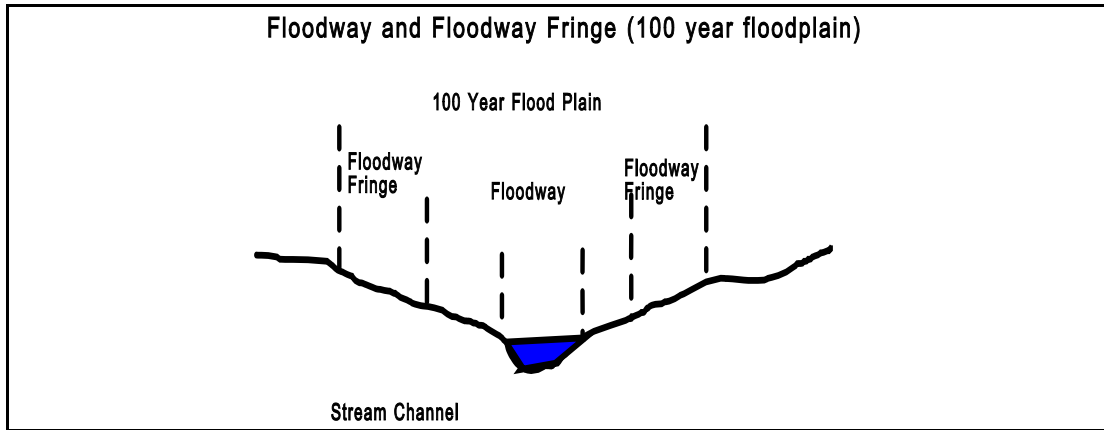
"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Existing Construction" means (for the purpose of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing Construction" may also be referred to as an "existing structure".

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

"Expansion of Existing Manufactured Home Park or Subdivision" the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of these floodplain management regulations.





"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 Map" The Flood Plain Study, Elkhorn River, Volume 2, Stanton County, Nebraska, prepared by the Nebraska Natural Resources Commission, July 1987.

"Flood Insurance Rate Map (FIRM)" Means an official map of a community, on which the Administrator has delineated both the special flood hazards areas and the risk premium 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.

"Flood plain or floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

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

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

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

"Historic Structure" means any structure that is: (1) 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; (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district; (3) 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 (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (a) By an approved state program as determined by the Secretary of the Interior or (b) Directly by the Secretary of the Interior in states without approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New Construction" For floodplain management purposes, "new construction" means structures for which the "start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is

completed on or after the effective date of floodplain management regulations adopted by a community.

"100-Year Flood" means the condition of flooding having one percent chance of annual occurrence and is referred to as Flood Fringe.

"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 (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

"Start of Construction" [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

"Variance" means a grant of relief to a person from the terms of a floodplain management ordinance.

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

### **Section 8-3: WA Wellhead Protection Area**

Intent: The City of Stanton designates a Wellhead Protection Area for the purpose of protection of the public water supply system. The boundaries of the Wellhead Protection Area is based upon a map prepared by the Nebraska Department of Environmental Quality and presented to the City of Stanton.

A. Definitions:

Wellhead Protection Area means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or well field.

B. Responsibility:

The Planning Commission of the City of Stanton, with approval by the City Council, shall be responsible for implementation and enforcement of the rules and regulations for the Wellhead Protection Area and shall consider all application filed pursuant hereto. All applications shall be approved or rejected by roll call vote. The Zoning Administrator shall be charged with administration of rules and regulations.

C. Existing Uses:

Wellhead structures or activities (as stated in Section 170.55.27 of Stanton City Code) in existence and use in the Wellhead Protection Area as of the effective date of the ordinance shall continue to be permitted unless such continued existence or use, in the opinion of the Planning Commission, presents a hazard to the municipal water supply or ground water. If the Planning Commission determines that an existing wellhead structure or activity presents a hazard, the Planning Commission shall authorize the Zoning Administrator to notify the owner of the structure or activity to cease and desist said structure or activity. If the owner of the structure or activity desires to continue operation of said structure or activity, the owner may make application for a permit pursuant to this ordinance. If the owner does not cease and desist pursuant to this ordinance, the Zoning Administrator may proceed pursuant to Section 6 of this ordinance against said owner of the structure or activity.

D. Penalty:

Any person found guilty by a court of law of violating any provision of this ordinance shall be subjected to a fine not to exceed \$500. The continuation of a violation of this ordinance shall be deemed an additional offense for every 24 hours of such continued violation. In addition, the City of Stanton may obtain injunctive relief and sure for damages and remediation and pursue other remedy available under laws for the State of Nebraska or other authority having jurisdiction over such matters.

E. Water: Limitations of Potential Contamination on Water Well

The City of Stanton shall establish control over the location of future potential sources of contamination within the City of Stanton, the extraterritorial jurisdiction or to customers of the City of Stanton Water System, so as to prevent or minimize any hazard to the to the safety of the City's drinking water.

It shall be unlawful to place, maintain, construct, or replace any of the following structures or to conduct any of the following activities within the distance specified below from any existing City Water Supply Well, water storage tank, or water treatment facility.

CATEGORY	DISTANCE
Water Well	1,000 feet
Sewage Lagoon	1,000 feet
Land Application of municipal/industrial waste material	1,000 feet
Feedlot or Feedlot Runoff	1,000 feet
Underground disposal system (septic system, cesspool, etc.)	500 feet
Corral	500 feet
Pit Toilet/Vault Toilet	500 feet
Wastewater Holding Tanks	500 feet
Sanitary Landfill/dump	500 feet
Chemical or Petroleum Product Storage	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

The governing body may consider allowing placement of water wells, as defined by Nebraska Regulations governing public water supply systems (Title 179, NAC2) and Nebraska Regulations governing water well construction, pump installation and water well abandonment standards (Title 178, NAC12) as amended from time to time, closer to a municipal water well, than the limitations set forth above. The well may be closer only under the following conditions:

1. The City shall refer the application to its engineer for evaluation and report. The estimated cost of the engineer's fees must be paid at the time of filing the application, by the applicant. The applicant, in addition to any previously paid estimated costs should pay any additional costs, which are reasonably incurred by the engineer in making their examination and report.
2. The governing body shall consider the engineer's report and any additional information submitted by the applicant. In reaching its decision on whether to allow the placement of a water well, as defined in this article, the governing body must act to prevent all sources of possible or likely water contamination.
3. If the governing body approves the installation, it shall submit the plan together with the engineer's report to the Department of Health and Human Services of the State of Nebraska for final approval or denial.

No installation shall be made without the approval of both the governing body and the Department of Health and Human Services of the State of Nebraska.

## Article 9: Additional Regulations

- 9-1: Lot of Record
- 9-2: Setbacks
- 9-3: Side Yard
- 9-4: Rear Yard Depth
- 9-5: Projections
- 9-6: Corner Lots
- 9-7: Height Limitations
- 9-8: Swimming Pools
- 9-9: Accessory Buildings
- 9-10: Outdoor Storage Containers; Temporary Mobile Storage
- 9-11: Extraction of Sand, Gravel or Other Raw Materials
- 9-12: Radio, Television and Communication Towers
- 9-13: Small Wind Energy Systems
- 9-14: Adult Entertainment Uses
- 9-15: Bed and Breakfast

### **Section 9-1: Lot of Record.**

Where the owner of a lot of official record in any district at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a building site provided that said lot is used so as to conform to all yard requirements of this Ordinance.

### **Section 9-2: Setbacks.**

Where thirty (30%) percent or more of any block front is improved with buildings, no part of any new building shall project beyond that front line of the two (2) nearest buildings, except that no building shall be required to provide a front yard greater than fifty (50) feet.

### **Section 9-3: Side Yard.**

The required side yard shall be maintained on each side of a dwelling, but such side yard may be reduced to ten (10%) percent of the lot width on lots of less than sixty (60) feet in width; Provided however, that no side yard shall be less than seven (7) feet.

### **Section 9-4: Rear Yard; Depth.**

The required rear yard may be reduced to twenty (20%) percent of the depth of the lot. An accessory building may be built within a required rear yard when located at least ten (10) feet from the rear lot line and when occupying not more than thirty (30%) percent of the area of such required rear yard. Further, where access to a garage is provided from an alley, such structure shall be no closer than twenty-five (25) feet to said alley.

### **Section 9-5: Projections.**

Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except:

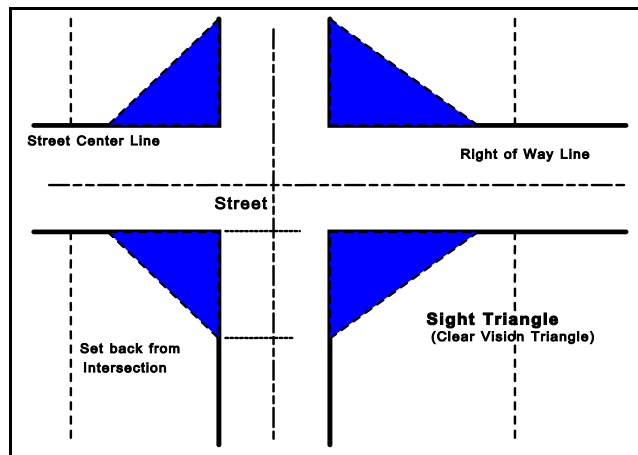


- A. The ordinary projection of sills, eaves, belt courses, cornices, and ornamental features may be permitted, but not to exceed more than eighteen (18") inches in any required yard.
- B. An open, uncovered porch or paved terrace (not over 6" in height) may extend not more than ten (10) feet into any required yard, but in no case shall such projection extend to a property line.

**Section 9-6: Corner Lots.**

A. On corner lots, the yard on that side of the lot abutting the side street shall not be less than the front yard required for the district in which the lot is located; provided, that on a lot of record the building width shall not be reduced to less than forty (40) feet. Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on such side street.

B. Clear Vision Triangle: Nothing above eighteen (18) inches or lower than eight (8) feet shall be located, erected or maintained in the area within a triangle formed by the intersection of the lot lines of a corner lot adjacent to a street or alley back a distance of twenty-five (25) feet from such intersection.



**Section 9-7: Height Limitations.**

Public, semi-public, or public service buildings, hospitals, institutions, churches, and schools, when permitted in a district may be erected to a height not exceeding sixty (60) feet; Provided, that all required yards are increased by one (1) foot for each foot of building height above the height limit otherwise provided.

**Section 9-8: Swimming Pools.**

All "above" or "in" ground swimming pools of a permanent nature constructed within the zoning jurisdiction, the area encompassed by the swimming pool shall be fenced with a six-foot (6) fence with self-closing locked gate. Drainage of said swimming pool must not be onto adjoining property. There shall be no drainage of said swimming pool into the sanitary sewer of the City. Drainage may be permitted into the storm sewer provided the chemicals contained in said swimming pool are first diluted. All chemicals for said swimming pool must be stored in a secure area.

**Section 9-9: Accessory Buildings**

- A. No accessory building or structure shall be constructed on a lot without a principal building or structure.
- B. In no event shall an accessory building be used as a dwelling.

- C. In no event shall a portable storage container be used as an accessory building.
- D. No detached accessory building or structure shall exceed the maximum permitted height allowed in the individual district, unless otherwise provided.
- E. No accessory building shall be constructed in the required front yard.
- F. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
- G. When a detached garage or other outbuilding is built within the required setback for a principal structure, the principal structure and detached building shall remain as separate structures and maintain the required separation distance found in F above.
- H. When a detached garage has access to an alley, the rear yard setback shall be increased to 25 feet for garages directly accessing the alley from the garage and door is parallel to the alley. Otherwise it shall be a minimum of ten feet.
- I. Temporary and portable carports may be allowed in provided the following criteria shall be met:
  - 1. The carport shall be anchored to the ground.
  - 2. Carport shall not be allowed to have more than two sides covered with a siding material.
  - 3. Siding material shall match the style of the primary structure on the lot.
  - 4. Shall meet all minimum setbacks.
- J. Detached garages and outbuildings for automobiles and/or storage use and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction and meet the following:
  - 1. Be constructed of materials that are in good repair.
  - 2. The sidewalls of the said building shall not exceed 10 feet from the interior floor to the ceiling and the overall roof height shall not exceed 20 feet. If a 10 foot door is installed, sidewall may be increased to 12 feet.
  - 3. In no case shall the structure exceed the ground floor coverage of the primary structure.
  - 4. Shall be constructed and be consistent with materials customarily used in residential construction and be consistent with materials and color of the principle structure
- K. Accessory buildings that are less than 440 square feet in total area may use a concrete monolithic floor slab.
- L. Accessory buildings less than 100 square feet are allowed 8 foot sidewalls.
- M. Accessory buildings shall have a maximum of 1,400 sq feet in R1, R2 and R3.
- N. Penalty for not following regulations for accessory buildings, in addition to all other remedies, may have a City penalty of \$5,000.

**Section 9-10: Outdoor Storage Containers; Temporary Mobile Storage**

- A. 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.

B. 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.

C. 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.

D 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.

E. 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 Stanton are exempt from these regulations.

**Section 9-11: Extraction of Sand, Gravel or Other Raw Materials**

It shall be unlawful for any owner or owners of property to extract, mine, quarry or remove soil for commercial purposes without the proper permits except soil donated for use by a municipality, county or state for public roadway purposes.

- A. The application shall include a grading map showing contours, proposed excavation contours and proposed final grade contours.
- B. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
- C. The application shall identify proposed vehicle and equipment storage areas.
- D. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land.
- E. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved.
- F. Topsoil, shall be collected and stored for redistribution on the site at the termination of the operation.
- G. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than 3/1 as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land.
- H. There shall no excavation closer than 100 feet to any abutting property not involved in the operation.
- I. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized and the land shall be graded, seeded and sodded

so as to prevent erosion and siltation and to protect the health, safety and general welfare of the public.

- J. When any extraction material is sold, removed and transported it shall be the responsibility of the property owner to meet the following conditions.

**Section 9-12: Radio, Television and Communication Towers**

Based upon the Communications Act of 1934, as amended by the Telecommunication Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. The intent of this section includes the following:

1. 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.
  2. To protect residential area and land uses from potential adverse impact of installation of towers and antennas through careful design, siting and landscaping.
  3. To promote and encourage shared use/collection of towers and other antenna support structures rather than the construction of additional towers.
  4. To avoid potential damage to property 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. Specifically, the Telecommunication Act of 1996 affirms the local government's right to control the siting construction, and modification of communication towers.
  5. To ensure that towers and antennas are compatible with surrounding land uses.
  6. To facilitate the provision of services to residents and businesses in an orderly fashion.
- A. 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:

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.

ANTENNA SUPPORT STRUCTURE shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.

APPLICANT shall mean any person that applies for a Conditional Use Permit.

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.

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 regulation.

ENGINEER shall mean any engineer qualified and licensed by any state or territory of the United States of America.

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.

PERSON shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

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.

STEALTH shall mean any telecommunications facility, tower, or antenna located in a residential zone 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.

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:

- a. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate in any zoning district
- b. 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.

TOWER shall mean a self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. Tower shall not include non-commercial amateur radio operators equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

TOWER OWNER shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Conditional Use Permit.

## B. Location of Towers and Construction Standards

In any zoning district, a conditional use permit may be granted to allow radio, television, microwave, cellular or other communication towers and are subject to the following additional requirements.

1. Tower Siting: It is the policy of the City of Stanton to encourage collocation of new communications towers with existing towers or as part of suitable existing structures. Applicants may not be denied space on an existing tower within the City of Stanton and its jurisdiction unless mechanical, structural, regulatory factors, or legitimate business expansion plans prohibit collocation.
2. Tower Setbacks, Design, and Height
  - a. 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 structure 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.
  - b. 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% of the height of the proposed tower, whichever is greater.
  - c. 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% of the height of the tower.
  - d. The Planning Commission may recommend and the City Council approve a reduction to the set back if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
  - e. The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Stanton. The City encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood. Metal exteriors shall generally not be permitted for accessory support buildings.
  - f. 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. The Planning Commission and City Council may require additional requirements.
  - g. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
3. Illumination and Security Fences
  - a. Towers shall be lighted required by the Federal Aviation Administration (FAA) or as required by the City Council.
    - (1) In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.

- b. All towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access.
4. City Site Selection Criteria in Evaluating Applications
- a. Consistent with the policy of this Ordinance, the company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.
  - b. Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed communications provider or has in place necessary agreements with an FCC licensed communications provider for use or lease of the support structure.
  - c. Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.
5. Priorities for Siting: The following establishes the order of priorities for locating new communications facilities:
- a. Public property, (excluding prairie, conservation or wildlife areas, or historic structures).
  - b. Appropriate existing structures, such as buildings, towers and water towers in other zoned districts.
  - c. TA, R2 and R3 districts that do not adjoin or adversely impact residential neighborhoods.
  - d. Private non-residential property in B1 and B2 districts.
  - e. Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.
  - f. An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available. The communications company is required to demonstrate that it contacted the owners of structures in excess of thirty feet (30') within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than thirty feet (30'), towers and water tanks within one-quarter mile of the proposed tower.

6. Application to develop a Tower: Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. The applicant for a communications tower location is required to demonstrate as part of its application that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the proposed height is the minimum height necessary for the successful functioning of the tower
  - e. Written technical evidence from an engineer that the proposed tower will meet the Universal Building Code, and all other applicable construction standards set forth by the City Council, County, and federal and state law and applicable American National Standards Institute (ANSI).
  - f. 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.
  - g. 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.
  - h. Site plan, specifying the location and legal description of the tower facility, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting and landscaped area.
  - i. A letter of intent to allow collocation on the antenna support structure. Nothing in these regulations shall prevent the owner of the tower from requiring remuneration from a collocation user, provided that such remuneration is rate reasonable. Facility owners shall not unreasonably exclude competitors from using the same facility and/or property owner if it is abandoned.
  - j. The City of Stanton shall require an appropriate space for its operational and emergency services communication equipment at no cost to the City as negotiated between the tower owner and the City.



7. Maintenance, Repair or Modification of Existing Towers: All towers constructed or under construction on the date of approval of this regulation 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. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Conditional Use Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Conditional Use 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 Conditional Use Permit.
8. 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. All tower facilities shall be subject to inspection to ensure continuing compliance with all conditions of the application submitted and approval requirements.
9. Abandonment
  - a. The tower owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the tower facility.
  - b. If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, 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 Zoning Administrator 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. One extension of no more than 6 months in duration of the abandonment grace period may be granted upon written request of the provider. Such request must be received 30 days in advance of expiration of the abandonment grace period. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee pursuant to authority of the Revised Nebraska State Statutes, and a written request shall be directed to the City Attorney to proceed to abate said public nuisance 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.
  - c. Time Limit on Tower Facility Construction.  
Construction of an approved tower facility must be completed within two years following the date of the approval. Landscaping must be installed within the first growing season immediately following construction.
  - d. Permit Fees: Applicant shall remit an application fee as listed on the City of Stanton Master Fee Schedule.

### **Section 9-13: Small Wind Energy Systems**

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

A. Definitions: The following are defined for the specific use of this section:

SMALL WIND ENERGY SYSTEM shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

TOWER HEIGHT shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

B. Requirements: Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height

- a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
- b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

2. Noise

- a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
- b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

3. Approved Wind Turbines

Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

4. Compliance with Building and Zoning Codes

- a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
- b. An engineering analysis of the tower showing compliance with official building code of the State of Nebraska and certified by a licensed professional engineer shall also be submitted.

5. Compliance with FAA Regulations

Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

6. Compliance with National Electrical Code

- a. Permit applications for small wind energy systems 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 Electrical Code.

b. The manufacturer frequently supplies this analysis.

7. Utility Notification

a. No small 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.

b. Off-grid systems shall be exempt from this requirement.

8. Setbacks

a. 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.

b. All towers shall adhere to the setbacks established in Table 1:

Wind Energy Installation Setbacks Table 1.

	Wind Turbine- Non Commercial
Property Lines	Diameter plus applicable building setback
Right Angle corner property lines	Diameter plus applicable building setback from both property lines
Neighboring Dwelling Units	Diameter plus applicable building setback

C. Permit Fees: Applicant shall remit an application fee as listed on the City of Stanton Master Fee Schedule.

**Section 9-14: Adult Entertainment Uses**

Adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to these restrictions:

- A. No adult entertainment business shall be open for business between the hours of 12:00 midnight and 6:00 a.m.
- B. No new adult entertainment business shall be permitted within 500 feet of another such business; or within 500 feet of a residential use, residential zoning district, or a pre-existing school, public park, or place of religious assembly. For the purposes of these regulations, measurements shall be made in a straight line, without regard to intervening structures or objects, from the business' main entrance to the point on the adjoining property closest to such main entrance.
- C. No adult entertainment business shall employ any person under 21 years of age.
- D. No adult entertainment business shall furnish merchandise or services to any person who is under 18 years of age.
- E. No adult entertainment business shall be conducted in any manner that permits the observation of models or any material depicting, describing, or relating to sexual

activities or anatomical areas identified in the definition of “adult entertainment business” by display, decoration, sign, show window, or other opening from any public way or from any property not licensed as an adult entertainment business. No operator or agent of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises that is prohibited by local, state, or federal law.

- F. No part of the interior of the adult entertainment business shall be visible from any sidewalk, walkway, street, or public area.
- G. Each adult entertainment business shall post a sign at the main entrance to the premises which states the nature of the business and states that no one under the age of 18 is permitted on the premises. This section shall not prohibit the operator from establishing a higher minimum age for entering the premises.
- H. Any adult entertainment business operated, conducted, or maintained contrary to these provisions shall be declared unlawful and a public nuisance, permitting the city attorney the discretion to seek any legal steps necessary for the abatement of the nuisance, in addition to other criminal actions under city ordinances.
- I. Adult entertainment businesses shall not be permitted as part of a home occupation.

#### **Section 9-15: Bed and Breakfast**

Bed and Breakfast shall meet the following requirements:

- A. Maintain a residential exterior appearance.
- B. Rooms may not be rented for more than 7 consecutive days and no more than 14 days per person in any 30-day period.
- C. Breakfast must be served on premises and included within the room charge for guest of the facility and shall be the only meal provided.
- D. Owner shall reside on the premises within the primary structure.
- E. Off Street parking shall be provided at one space per occupant room.

## Article 10: Parking

10-1: Off-Street Automobile Storage

10-2: Required Parking

### **Section 10-1: Off-Street Automobile Storage**

- A. Off-street automobile storage or parking 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. The administrator shall determine the most similar requirement where such use is not specifically mentioned. The following are the minimum requirements for specific uses:
1. Dwellings - Two (2) spaces for each family dwelling unit.
  2. Boarding Houses and Rooming Houses - One (1) space for each room occupied or intended for occupancy by boarders or roomers, in addition to the requirements of 1.
  3. Tourist Accommodations - One (1) space for each room offered for tourist accommodations.
  4. Theater, Auditorium, Church, Stadium, or Other Place of Public Assembly - One (1) space for each four (4) seats available at maximum capacity.
  5. Industrial Plant - One (1) space for each four (4) persons employed or intended to be employed on such lot.
  6. Commercial or Business Building in a B-1 or B-2 District - Four (4) spaces for the first one thousand (1,000) square feet of ground floor space and one (1) additional space for each additional three hundred (300) square feet of such floor space.
- 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 Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies in the same zoning district and within three hundred (300) 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.

**Section 10-2: Required Parking**

**SCHEDULE OF MINIMUM OFF-STREET  
PARKING AND LOADING REQUIREMENTS**

<b><u>Structures and Uses</u></b>	<b><u>Parking Requirements</u></b>	<b><u>Loading Requirements</u></b>
Bowling Alleys	4 Spaces per alley	1 Space per establishment
Churches, Synagogues, and Temples	1 Space per 4 seats in main unit of worship	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 Spaces per establishment
Educational Uses, Nursery	Parking spaces equal to 20% capacity in students	2 Spaces per structure
Educational Uses, All Other	Parking spaces equal to 40% of capacity of students	2 Spaces per structure
Funeral Homes and Chapels	8 Spaces per reposeing room	2 Spaces per establishment
Hospitals	1 Space per 2 beds	3 Spaces per structure
Hotels	1 Space per rental unit	1 Space per establishment
Industrial Uses	1 Space per 3 employees on largest shift	2 Spaces per establishment
Libraries	1 Space per 500 square feet of floor area	1 Space per structure
Lodging and Boarding Houses	1 Space per rental unit	None required
Medical Clinics	5 Spaces per staff doctor or dentist	None required
Mobile Home Park	2 Spaces per dwelling unit	None required
Motels	1 Space per rental unit	None required
Private Clubs and Lodges	1 Space per 500 square feet of floor area	1 Space per establishment
Residential Structures (including Mobile Home Dwellings)	2 Spaces per dwelling unit	None required
Roadside Stands	4 Spaces per establishment	None required
Sanitariums, Convalescent, and Rest Home Services	1 Space per 3 beds plus 1 space per employee	1 Space per establishment
Service Establishments	1 Space per 200 square feet of gross floor area	1 Space per establishment
Theaters, Auditoriums, and Places of Assembly	1 Space per 4 people in designed capacity	1 Space per establishment
Veterinary Establishments	3 Spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 Space per 2 employees on largest shift	2 Spaces per establishment

## Article 11: Signs

11-1: Standard of Measurement

11-2: Type of Signs

11-3: Matrix of Signs Permitted

### **Section 11-1: Standard of Measurement**

- A. The total area of all signs permitted on a lot shall include:
1. The total area of the faces of all permanent exterior signs visible from a public way, plus
  2. The area of permanent signs placed upon the surface of windows and doors, plus
  3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
- B. A building or use having frontage on a second street may include twenty (20%) percent of the length of the lot facing the second street.

### **Section 11-2: Type of Sign**

A. Real Estate.

Not more than two (2) signs per lot may be used as a temporary sign no larger than six (6) square feet (except may be up to 12 square feet) and set back twenty (20) feet from the road right of way or road easement boundary.

B. Announcement.

Small announcement or professional signs, not over six (6) square feet in area, except that an announcement sign or bulletin board not over eighteen (18) square feet in area, set back at least twenty (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.

C. Wall.

A sign flat against a building not exceeding in the aggregate fifty (50) square feet in area.

D. Name Plate.

One nameplate not exceeding two (2) square feet for each dwelling.

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 one hundred (100) feet of any lot in a residential district.
3. No billboard, signboard, or similar advertising signs shall exceed seven hundred (700) 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 five (5) feet from any lot line with a maximum height of ten (10) feet.

G. Projecting or Pole.

One free standing or projecting sign for each enterprise on the premises of not more than one hundred (100) square feet per sign face, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceeding fifty (50) 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.

**Section 11-3: Matrix of Signs Permitted**

Signs shall be permitted in the various districts according to the following matrix:

		Sign Matrix										
<u>Zoning District</u>	TA	RS	R1	R2	B1	B2	I1	I2	HO	FO	WO	
<u>Sign Type</u>												
Real Estate	+	+	+	+	+	+	+	+	+	c	c	
Announcement	+	+	+	+	+	+	+	+	+	c	c	
Wall	-	-	-	-	+	+	+	+	+	c	c	
Name Plate	+	+	+	+	+	+	+	+	+	c	c	
Billboard	c	-	-	-	c	-	+	+	c	-	-	
Elevated	c	c	c	c	+	c	+	+	+	c	-	
Projection or Pole	-	-	-	-	+	-	+	+	c	-	-	

- +: permitted
- : not permitted
- c: Conditional Use