

**ALMA NEBRASKA**

**Zoning Regulations  
2019**

Originally Adopted

May 6, 2019

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# **ARTICLE 1: GENERAL PROVISIONS**

## **SECTION 101 TITLE**

This Ordinance shall be known, referred to, and cited as the “Zoning Ordinance of the City of Alma, Nebraska 2019.

## **SECTION 102 JURISDICTION**

The provisions of this Ordinance shall apply within the corporate limits of the City of Alma, Nebraska and the territory beyond said corporate limits which is within one mile of said corporate limits, as defined on the Official Zoning Map of the City of Alma 2019, Nebraska as the same may be amended by subsequent annexation.

## **SECTION 103 PURPOSE**

This Zoning Ordinance is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this Zoning Ordinance is adopted in order to achieve the following objectives:

1. To provide a precise plan for the physical development of the City of Alma, Nebraska in such a manner as to achieve, progressively, the general arrangement of land uses depicted in the Comprehensive Plan of the City.
2. To provide the stability of existing land uses which conform with the objectives and policies of the City’s Comprehensive Plan and to protect them from inharmonious influences and harmful intrusion.
3. To promote the stability of existing land uses which conform with the objectives and policies which are most appropriate and most beneficial from the standpoint of the City and its citizens.
4. To ensure that public and private lands ultimately are used for the purpose which are most appropriate and most beneficial from the standpoint of the City and its citizens.
5. To promote beneficial redevelopment of those areas which exhibit conflicting patterns of use.
6. To prevent excessive population densities and overcrowding of the land with structures.
7. To promote a safe, efficient, and effective traffic circulation system.
8. To protect and promote appropriately located agricultural, commercial and industrial pursuits in order to preserve and strengthen the economic base of the City.
9. To protect and enhance real property values.
10. To facilitate the appropriate location of public facilities and institutions.
11. To conserve the natural and historic assets of the City and to capitalize on the economic and quality of life opportunities offered by its terrain, soils, vegetation, waterways and lakes.

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## **ARTICLE 2: APPLICATION OF REGULATIONS**

### **SECTION 201 GENERAL APPLICATION**

The zoning regulations set forth by this Ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of land within a zoning district, except as hereinafter provided.

### **SECTION 202 ZONING AFFECTS EVERY BUILDING AND USE**

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located and other applicable provisions of this Ordinance.

### **SECTION 203 GENERAL PERFORMANCE STANDARDS**

No building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons or families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, front yards, side yards or other spaces than herein required, or in any manner contrary to the provisions of the Ordinance.

### **SECTION 204 OPEN SPACE, PARKING AND LOADING AREAS**

Except where specifically authorized in this Ordinance, no part of any yard or any other open space, off-street parking area or loading area required in connection with any building or use for the purpose of complying with the requirements of the Ordinance shall be included as part of any yard or other open space, off-street parking area or loading area similarly required for any other building or use.

### **SECTION 205 YARD AND LOT REDUCTION PROHIBITED**

No yard or lot, existing at the time of adoption of this Ordinance, shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Ordinance shall meet or exceed the minimum requirements established herein.

### **SECTION 206 COMBINATION OF LOTS OR PORTIONS OF LOTS**

Any lot, portion of a lot, two or more contiguous lots, combination of contiguous lots or portions of contiguous lots under the same ownership of record on the effective date of this Ordinance shall, under this Ordinance, be considered a single lot and shall not be separated or subdivided in any way unless all lots created or remaining from such separation or subdivision shall meet or exceed the minimum lot area, lot width, and lot frontage requirements of the zoning district in which such lot, portion of a lot, two or more contiguous lots, combination or contiguous lots or portions of contiguous lots is/are located.

### **SECTION 207 PROVISIONS ARE MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the provisions of this Ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or structures, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Similarly, where the provisions of any other ordinance require a greater width or size of yards, courts or other opens spaces, or require a lower height of building or structures, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards that are required by this Ordinance, the provisions of such other ordinance shall govern.

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## ARTICLE 3: CONSTRUCTION AND DEFINITIONS

### SECTION 301 CONSTRUCTION

The following rules of construction shall apply in the application of this Ordinance unless inconsistent with the plain meaning of the context of this Ordinance;

**301.01 TENSE:** Words used in the present tense include the future tense

**301.02 NUMBER:** Words used in the singular include the plural and words used in the plural include the singular

**301.03 SHALL AND MAY:** The word “shall” is mandatory. The word “may” is permissive.

**301.04 GENDER:** The masculine shall include the feminine and the neuter.

**301.05 HEADINGS:** In the event that there is any conflict or inconsistency between the heading of an article or section of this Ordinance and the text of the corresponding article, section, the heading shall not be deemed to affect the scope, meaning or intent of such text

### SECTION 302 GENERAL TERMINOLOGY

The word “City” shall mean the City of Alma, Nebraska. The words “City Council” shall mean the Mayor and City Council of the City of Alma, Nebraska. The words “Planning Commission” shall mean the City of Alma, Nebraska Planning Commission duly appointed and the words “Board of Zoning Adjustment” shall mean the City of Alma, Nebraska Board of Zoning Adjustment duly appointed.

### SECTION 303 DEFINITIONS

Words or terms not herein defined shall have their ordinary meanings in relation to the context of this Ordinance. For purposes of this Ordinance, certain words and terms used herein are defined as follows;

**303.01 ABUT:** Any situation where a lot, tract or parcel of land borders directly on another lot, tract or parcel of land or is separated from another lot, tract or parcel of land by a distance of twenty (20) feet or less.

**303.02 ACCESSORY USE, BUILDING OR STRUCTURE:** A use, building or structure which is located on the same premises which is customary and incidental to the principle building or use of the premises, which is subordinate to primary use of the premises and subordinate to the principal building in height, area, bulk, cubic volume and purpose.

**303.03 ADULT COMPANIONSHIP ESTABLISHMENT:** An establishment which provides the service of engaging or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

**303.04 ADULT ESTABLISHMENT:** Any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to “specified sexual activities” or “specified anatomical areas” including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

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- 303.05 ADULT HOTEL OR MOTEL:** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
- 303.06 ADULT MASSAGE PARLOR, HEALTH CLUB:** A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- 303.07 ADULT MINI-MOTION PICTURE THEATER:** A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- 303.08 ADULT MOTION PICTURE ARCADE:** Any place to which public is permitted or invited wherein coin or slug-operated or electronically, or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
- 303.09 ADULT MOTION PICTURE THEATER:** A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- 303.10 ADULT NOVELTY BUSINESS:** A business which has a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.
- 303.11 ADULT SAUNA:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot aid as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- 303.12 AGRICULTURAL USES:** The use of land for the purposes of producing crops, for raising, breeding or management of livestock, fish or fowl, dairying, truck farming, orchards or forestry and other similar horticultural or apicultural use and the non-commercial storage or processing of agricultural products produced on the premises. Agriculture use shall not include the confined raising, breeding, feeding or management of the livestock, fish or fowl as defined in Section 303.40 of this Ordinance.
- 303.13 ALLEY:** A dedicated public right-of-way other than a street which provides secondary access to property abutting such right-of-way.
- 303.14 ANIMAL HOSPITAL OR VETERINARY CLINIC:** A establishment where animals are admitted principally for examination, treatment for injury, sickness or other health reason and/or the board or care by a Doctor of Veterinary Medicine, excluding outdoor kennels or runs as defined in Section 303.73 of this Ordinance.

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- 303.15 APARTMENT:** A room or suite of rooms within an apartment house or multiple-family dwelling, arranged, intended and designed as a place of residence for a single family or group of individuals living together as a single-family unit which has culinary and restroom accommodations.
- 303.16 AQUACULTURE:** The cultivation of aquatic animals and plants, especially fish, shellfish and seaweed in natural or controlled marine or freshwater underwater environments.
- 303.17 AWNING:** A structural extension over the exterior of a door or window which provides protection from sun and /or rain.
- 303.18 BASE FLOOD:** A flood, from whatever source, having a one percent (1%) chance of being equaled or exceeded in any given year, otherwise referred to as a one hundred (100) year flood.
- 303.19 BASE FLOOD ELEVATION:** The elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every one hundred (100) years, or which is subject to a one percent (1%) chance flooding in any given year.
- 303.20 BASEMENT:** A space or level in a building, wholly or partially underground, having more than on-half (1/2) its height, measured from its floor to its ceiling, below the average grade of the ground surrounding such space.
- 303.21 BED AND BREAKFAST USE:** A building, other than a hotel, motel or boarding or lodging house, where for compensation, temporary lodging and meals are provided to persons lodging in rooms at the premises by the occupant of the premises and where such rooms are not equipped with individual cooking facilities.
- 303.22 BLOCK:** An area of land that is entirely bounded by streets, by streets and the exterior boundaries of a subdivision, or by a combination of the above with a river, lake, or railroad line which is intended for building development.
- 303.23 BLOCK FRONTAGE:** That portion of a block fronting on a street between two (2) intersecting streets or other block boundary.
- 303.24 BOARDING HOUSE, LODGING HOUSE:** A building, other than a motel, hotel or bed and breakfast use where, for compensation, lodging and meals are provided to persons residing in rooms at the premises where such rooms are not equipped with individual cooking facilities.
- 303.25 BREWERY:** A building or facility for brewing ale, beer or similar alcoholic beverages on site.
- 303.26 BUILDABLE AREA:** The portion of a lot, tract or parcel of land not including the front, side and rear yards as required in the applicable zoning district regulations set forth in the Ordinance.
- 303.27 BUILDING:** A structure having a roof and intended for the enclosure, shelter or protection of people, animals or property.
- 303.28 BULK STORAGE:** The storage of materials for distribution to other locations and not for use or consumption of such materials on the premises.
- 303.29 CAMPGROUND:** A premises where two (2) or more camping units are parked or placed for camping purposes, or a premises used or set apart for supply to the general public, camping space for two (2) or more camping units for camping purposes, including any buildings, structures, vehicles or enclosure used or intended wholly or partially for the accommodation of transient campers.

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- 303.30 CAMPING UNIT:** A vehicle, tent, trailer, tiny home or other movable shelter used for camping purposes.
- 303.31 CANOPY:** A roof projection over a door, entrance into a building, a drive through window or over business related uses including automatic teller machines, bank by car facilities, fuel pumps and the like which is supported only by attachment to the main building and/or by posts or columns and is without walls.
- 303.32 CARPORT:** An awning or roofed structure with not more than two (2) walls, intended to provide shelter for a vehicle or vehicles which may be free standing or partially supported by a building.
- 303.33 CERTIFICATE OF ZONING COMPLIANCE:** A written statement, issued upon request by the Zoning Administrator, stating that the premises has been inspected after the erection, construction, reconstruction, alteration or moving of a building or structure, or after change in use of the premises and that such building, structure, and use complies with all applicable provisions of this Ordinance.
- 303.34 CHILD CARE CENTER:** A facility used for the care of children from different families which is or should be licensed by the Nebraska Department of Social Services as a day care center or home.
- 303.35 CLINIC, MEDICAL, DENTAL OR HEALTH:** A building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental ailments or diseases of human beings, including but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, where patients are not lodged overnight.
- 303.36 CLUB:** An establishment operated for social, fraternal, recreational or educational purposes which is opened only to club members and not the general public.
- 303.37 COMMISSION:** The City of Alma, Nebraska Planning Commission.
- 303.38 COMPATIBLE USE:** A use of land suitable for direct association with abutting and/or surrounding uses of land because of consistency with the intent of the applicable zoning district, because the use exhibits similar or comparable characteristics as abutting and/or surrounding uses, and because a mutually harmonious relationship with respect to protecting the use, value and enjoyment of property will result.
- 303.39 COMPREHENSIVE PLAN:** The plan or series of plans for the future development of the City of Alma, Nebraska, recommended to the Mayor and City Council by the Planning Commission and duly adopted by the action of the City Council of Alma, Nebraska.
- 303.40 CONDITIONAL USE:** A use of land that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, size, height, intensity, location or relationship to the surrounding property would promote the public health, safety, morals, convenience and general welfare.
- 303.41 CONFINED LIVESTOCK FEEDING:** Any land area used for the confined breeding, raising, feeding or management of cattle, swine, sheep, fish, fowl or other animals in buildings, pens or other spaces which are designed for on-going confined breeding, raising, feeding or management of animals for commercial production and which are not used for raising of crops or pasturing of animals. The seasonal confinement of animals for birthing, weaning of young animals or background feeding of livestock for less than ninety (90) days during the months of October through March and the confined feeding and management of ten (10) or fewer fowl, rabbits or other similar small animals shall not be considered confined livestock feeding.

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**303.42 CONSERVATION / PRESERVATION EASEMENT:** In accordance with Nebraska Revised Statute §76-2.111, a conservation / preservation easement shall mean a right, covenant or condition of any deed, will, agreement or other instrument executed by or on behalf of the owner or an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic or open condition, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat or open space, protecting air or other natural resources or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

**303.43 CONVENIENCE STORE:** A retail store specializing in the sale of gasoline and the sale of articles such as food products, over-the-counter drugs, tobacco products, magazines, candy, beverages and similar convenience items which are purchased frequently for “near term” consumption and use. A retail store not selling both gasoline and convenience goods shall not be considered a convenience store.

**303.44 COURT:** An outdoor, unoccupied space open to the sky, enclosed on two (2) or more sides by the exterior walls of a building or buildings.

**303.45 CUL-DE-SAC STREET:** A street having one end open to traffic and being terminated on the opposite end by a vehicular turnaround.

**303.46 DATA STORAGE FACILITY:** A facility that performs one or more of the following functions; 1) a data center physically housing various equipment such as computers, application servers, database servers, switches, data storage devices, load balancer and related equipment; 2) Storage, management and processing of data and exchange of digital data and information, and 3) provides application servers or management for various data processing.

**303.47 DEAD STORAGE:** The storage of any partially dismantled, no-operating, wrecked, junked or discarded vehicle on a lot for longer than thirty (30) days or for any length of time any vehicle that has been unlicensed for a period in excess of thirty (30) days, provided that storage of such vehicles in an entirely enclosed building shall be permitted without restriction.

**303.48 DEVELOPED AREA:** An area of land, consisting of one or more parcels or lots, which fronts on one side of a street between two intersecting streets or in the absence of any intersecting street, a distance of one hundred fifty (150) feet on either or both sides of the centerline of the lot on which development is proposed, whereon at least fifty-one (51) percent of the parcels or lots are developed with buildings.

**303.49 DISTRICT (ZONING):** A section or sections of this Ordinance which sets forth uniform regulation regarding use of land, minimum lot widths, frontages and areas, minimum yards, maximum building heights and similar regulations.

**303.50 DUPLEX:** See Section 303.57 – DWELLING, TWO-FAMILY.

**303.51 DWELLING:** A building or portion thereof which is designed and used for residential living.

**303.52 DWELLING, ASSISTED LIVING:** A dwelling which is part of a multi-family dwelling (see Section 303.54) designed for occupancy by elderly or disabled persons, in which the elderly or disabled occupants are provided varying forms of home care and / or nursing assistance.

**303.53 DWELLING, ATTACHED:** A residential building which is joined to another residential building on one or more sides by a common wall.



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- 303.54 DWELLING, MULTI-FAMILY:** A building, other than a hotel, motel, boarding or lodging house or bed and breakfast facility, used by three or more families or unrelated persons living independently of each other and having separate kitchen and restroom facilities.
- 303.55 DWELLING, SINGLE-FAMILY:** A building, other than a manufactured or mobile home, having independent residential living accommodations for and intended to be occupied exclusively by one (1) family or group of individuals living together as a single housekeeping unit.
- 303.56 DWELLING, TOWNHOUSE:** See Section 303.118 TOWNHOUSE.
- 303.57 DWELLING, TWO-FAMILY (DUPLEX):** A building, other than a manufactured or mobile home, having accommodations for and intended to be occupied by two (2) families or group of individuals living together as a single housekeeping unit with separate sleeping, kitchen and restroom facilities for each family or housekeeping unit.
- 303.58 DWELLING UNIT:** Multiple rooms connected together which constitute a separate and independent residence for human occupancy and which contains cooking, sleeping and restroom facilities.
- 303.59 EASEMENT:** A grant for the use of a defined tract of land for a specific purpose or purposes by a property owner to the public, another person, corporation, or legal entity.
- 303.60 FAMILY:** An individual person or two (2) or more persons related by blood, marriage or law, or a group of not more than five (5) persons not related, living together in a dwelling unit.
- 303.61 FARM:** A crop production, livestock production or other similar use containing twenty (20) acres or more of land from which one thousand dollars (\$1,000) or more of crop or meat products are produced each year.
- 303.62 FLOOD HAZARD AREA:** Any land which is subject to a one (1) percent or greater chance of flooding in any given year.
- 303.63 FLOOR:** A level or story in a building.
- 303.64 FLOOR AREA:** The sum of the gross horizontal areas of the one or more floors in a building.
- 303.65 FLOOR AREA RATIO:** The total floor area of a building divided by the lot area on which the subject building or buildings is/are located.
- 303.66 FRONTAGE (LOT):** The length of the real property abutting one side of a street, measured along the right of-way line or other dividing line between the real property and the street.
- 303.67 GROUP HOME:** A residential facility which is operated under the auspices of an organization which is responsible for providing administration, direction and control for the home which is designed to provide twenty-four (24) hour care for persons who are unrelated by blood, marriage, adoption or guardianship while receiving therapy, training, education, counseling or other service for purposes of adaptation to living independently as possible.
- 303.68 HEIGHT (BUILDING):** The vertical dimension measured from the average elevation of the finished grade at the front building line to the highest point of a building, excluding chimneys, antennae and similar appurtenances.

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**303.69 HEIGHT (STRUCTURE):** The vertical dimension measured from the average elevation of the finished grade at the base of the structure to the highest point of the structure.

**303.70 HOME OCCUPATION / HOME BASED BUSINESS:** A use, other than a child care center, conducted within a dwelling or building accessory to such dwelling, employing no more than one (1) person other than the inhabitants of such dwelling, which is clearly incidental and secondary to the residential occupancy of the dwelling, does not change the character thereof and complies with the standards for home occupations as set forth in Section 514 of this Ordinance.

**303.71 IMPACT EASEMENT (DEED RESTRICTION):** An easement or deed restriction, recorded in the office of the Harlan County Registrar of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or intensive animal feeding use, a waste handling facility use or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, noise or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.

**303.72 INCOMPATIBLE USE:** A use of land unsuitable for direct association with abutting and/or surrounding uses of land because of inconsistency with the intent of the applicable zoning district, because the use exhibits characteristics which would negatively impact abutting and/or surrounding uses with respect to the use, value and enjoyment of such abutting and/or surrounding property.

**303.73 JUNK YARD:** See Section 303.98 SALVAGE YARD.

**303.74 KENNEL:** A facility where a combination of more than two (2) dogs, cats or other animals more than six (6) months of age are boarded, bred, cared for or kept on any premises.

**303.75 LANDSCAPED BUFFER:** A maintained land area in the front yard of a lot, developed in accordance with the landscape buffer depth requirements of each applicable zoning district set forth in this Ordinance, of which a minimum of fifty percent (50%) of the area shall be covered by any combinations of living landscape material including trees, shrubs, living ground cover or other living materials other than turf grasses, at the time of planting. The remaining fifty percent (50%) of the area shall be covered by turf grasses or other landscape materials, living or non-living.

**303.76 LANDSCAPE SCREEN:** Any fence, wall, hedge, shrubs or trees and other customary landscape materials or combination thereof, developed and maintained in accordance with the requirements of each applicable zoning district set forth in this Ordinance, which effectively provide a solid, dense and opaque mass which prohibits view from abutting property, absorbs sound and provides site delineation at all times throughout the year. Customary landscaped materials shall not include vehicle bodies, truck trailers, or other similar items.

**303.77 LOADING AREA:** Space on a lot which is logically and conveniently located for delivery or pick-up of raw materials, supplies or products, scaled to the delivery vehicles expected to be used and accessible to such vehicles when required off-street parking areas are filled with vehicles. In the C-1, Central Business Zoning District, an alley may constitute the required loading area.

**303.78 LOT (ZONING):** A piece, parcel or plat of land under single ownership or control, not divided by any public street or public alley, having frontage on a public street or officially approved private street, which is occupied or intended to be occupied by one principal building and its accessory buildings or structures. A lot may consist of a single lot of record, a portion of a lot of record, a combination of complete lots of record, of complete lots of record and portions of lots of record, or a parcel described by metes and bounds. (Refer to Section 206 of this Ordinance for clarification.)

**303.79 LOT AREA:** The horizontal area of a lot exclusive of any portion of a street or alley right-of-way.

**303.80 LOT, CORNER:** A lot located at the intersection of two (2) or more streets, indicated as “A” in Figure 303.01, or a lot abutting a curved street or streets where straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees, indicated as “A1” in Figure 303.01.

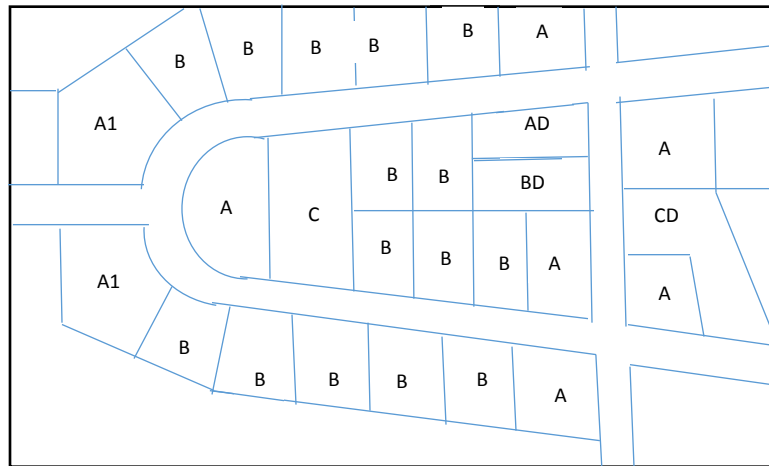
**303.81 LOT COVERAGE:** The total area of the lot, usually expressed as a percentage of the lot area, that is covered, occupied or enclosed by principal and accessory buildings, structures, porches, patios, decks, swimming pools, parking areas, loading areas, driveways or other constructed features.

**303.82 LOT DEPTH:** The average horizontal distance between the front and rear lot lines.

**303.83 LOT, INTERIOR:** A lot, other than a corner lot with only one (1) frontage on a street, indicated as “B” in Figure 303.01

**303.84 LOT OF RECORD:** A lot which is part of a subdivision plat or lot, plat or parcel described by metes and bounds which was recorded in the office of the Register of Deeds of Harlan County, Nebraska at the time of enactment of this Ordinance.

**303.85 LOT, THROUGH:** A lot, other than a corner lot, with frontage on more than one (1) street, indicated as “C” in Figure 303.01.



**FIGURE 303.01**

**303.86 LOT WIDTH:** The distance between straight lines connecting the front and rear lot corners at each side of the lot, measured at the required front yard depth (setback line).

**303.87 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 is built in compliance with the National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280e et. Seq. promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes 1943 which bears the seal of the Nebraska Department of Health or successor thereto and which complies with the following minimum standards:

1. a minimum floor area of nine hundred (900) square feet,
2. a minimum exterior width of eighteen (18) feet,

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3. a minimum roof pitch of two and one half (2 ½) inches rise per each twelve (12) inches of horizontal run,
  4. exterior material shall be of a color, material, and scale comparable with existing residential site-built single-family construction,
  5. a non-reflective roof of material which is or simulates asphalt or wood shingles, tile or rock,
  6. all wheels, axles, transporting lights and removable towing apparatus have been removed,
  7. is placed on and permanently attached to a foundation of the same construction as required for site-built homes,
  8. is permanently connected to public utilities in the same manner required for site-built homes.

**303.88 MOBILE HOME:** A detached, single or two-family dwelling which was originally designed for long-term human habitation, which was constructed and fabricated into a complete unit at a factory, which is capable of being transported to a location for use on its own chassis and wheels, which is identified by model number and serial number by its manufacturer, and which is designed primarily for placement on a non-permanent foundation, but which does not comply with the definition of Section 303.87 MANUFACTURED HOME

**303.89 MOBILE HOME PARK / COURT:** Any parcel or contiguous parcels of land designated, maintained, used or intended to be used for the placement of two (2) or more mobile homes where such homes are connected to public and/or semi-public utilities and use for living or sleeping purposes, whether or not a charge is made for location of such homes on such parcel or contiguous parcels of land.

**303.90 MOBILE HOME SUBDIVISION:** An area of land which has been subdivided for the sale of two (2) or more lots for the purpose of placing a mobile home on such lots with such mobile homes to be used for living or sleeping purposes.

**303.91 MODULAR HOME:** A manufactured housing unit, as defined in Section 71-1557 of the Nebraska Revised Statutes 1943, which bears the seal of the Nebraska Department of Health or its successor.

**303.92 NON-CONFORMING STRUCTURE:** A building or other structure, legally existing on the date of enactment of this Ordinance or amendment thereto, which does not comply with the minimum lot area, lot coverage, height, yard, or other applicable regulation of the Ordinance other than use of such building or structure.

**303.93 NON-CONFORMING USE:** Any use of a building, structure, or land, legally existing on the date of enactment of this Ordinance or amendment thereto, which does not conform to the requirements and regulations of the zoning district in which it is located.

**303.94 PERMANENT FOUNDATION:** A base for a building or structure constructed from concrete or masonry block or brick which is placed on a footing below ground at a depth below the average frost line.

**303.95 PRINCIPAL BUILDING:** A building in which the primary use of the lot, tract or parcel of land is situated.

**303.96 PRIVATE STREET:** A privately owned, open and unoccupied space other than a driveway or a public street or alley which is reserved as the principal means of vehicular access to lots or parcels abutting such space and which is developed, improved and approved in accordance with the requirements for such streets, established by the City of Alma, Nebraska.

**303.97 RECREATIONAL VEHICLE:** A temporary dwelling for travel, recreation and vacation use including travel trailers, camping trailers, pickup campers, motor coaches, camp cars, tent trailers,

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boats, tiny homes not on a permanent foundation and not permanently hooked to utilities or any other vehicular portable structure.

**303.98 SALVAGE YARD:** Any lot, parcel or tract of land or portion thereof used for the purpose of dismantling of machinery, equipment or vehicles or for the storage or keeping for sale of parts and equipment resulting from such dismantling, wrecking or other method of salvaging of such items, or for the storage or keeping of scrap metals and other scrap or waste materials, provided that the storage of machinery, equipment or vehicles in entirely enclosed buildings shall not be considered a salvage yard.

**303.99 SETBACK LINE:** A line defined by connecting two (2) points, each measured from the front, side or rear lot line which establishes the interior boundary of the front, side or rear yard on a lot. For purposes of this Ordinance, a front setback line shall be determined by measuring from the existing right-of-way line of the abutting street or the proposed right-of-way width established for the classification of the abutting street as set for in the City's Major Street Plan of current adoption, which is greater.

**303.100 SIGN:** As defined in Section 520 of this Ordinance.

**303.101 SIGN, BILLBOARD:** As defined in Section 520 of this Ordinance.

**303.102 SIGN, BUSINESS:** As defined in Section 520 of this Ordinance.

**303.103 SIGN FACING:** As defined in Section 520 of this Ordinance.

**303.104 SIGN, FREE STANDING:** As defined in Section 520 of this Ordinance.

**303.105 SIGN, INCIDENTAL:** As defined in Section 520 of this Ordinance.

**303.106 SIGN, PROJECTING:** As defined in Section 520 of this Ordinance.

**303.107 SIGN STRUCTURE:** As defined in Section 520 of this Ordinance.

**303.108 SIGN SURFACE:** As defined in Section 520 of this Ordinance.

**303.109 SOLAR FARM:** A use where a series of ground mounted solar devices that collect and convert solar radiation to electrical energy are placed in an area for the purpose of generating photovoltaic power for sale to the electrical power grid or any solar installation exceeding one (1) acre in area.

**303.110 SOLAR INSTALLATION:** A use of land one (1) acre or less in area where a series of ground or building mounted solar devices that collect and convert solar radiation to electrical energy are placed for the purpose of generating photovoltaic power to the use on the same premises.

**303.111 SPECIFIED ANATOMICAL AREAS:** Anatomical areas consisting of less than completely covered and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**303.112 SPECIFIED SEXUAL ACTIVITIES:** Activities consisting of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or

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torture in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, picquerism, sapphism, zooerasty; or

2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
3. Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s)
5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
6. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal or human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

**303.113 STORAGE, PERMANENT:** The presence of any regulated item not stored in an entirely enclosed building for a period of thirty (30) or more consecutive days. A mobile home, as defined herein, shall not be considered an enclosed building for storage.

**303.114 STREET:** A public or private way set aside for public travel which affords the principal means of vehicular access to abutting property. A street shall include a road, highway, thoroughfare, and avenue.

**303.115 STREET CENTERLINE:** A line extending down the center of a street right-of-way.

**303.116 STREET LINE:** A right-of-way line of a street or the dividing line between a lot, tract, or parcel of land and the private street abutting such lot, tract, or parcel of land.

**303.117 STRUCTURAL ALTERATION:** Any change to the supporting members of a building or structure including foundations, bearing walls, columns, beams or girders.

**303.118 STRUCTURE:** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

**303.119 STRUCTURE, TEMPORARY:** A non-permanent structure designed or used for a limited period of time.

**303.120 TOWNHOUSE:** One of a group or rows of not less than three (3) nor more than twelve (12) attached, single family dwelling units designed and constructed as a single structure facing upon a street in which the individual dwelling units have front and rear access to the outdoors and may or may not be owned separately.

**303.121 USE:** The purpose or activity for which the land and/or buildings and structures thereon is designed, arranged, or intended, or for which it is occupied or maintained, including any manner of standards of this Ordinance.

**303.122 VARIANCE:** A relaxation of the requirements of this Ordinance where such relaxation of the requirements of this Ordinance will not be contrary to the public interest and where, owing to

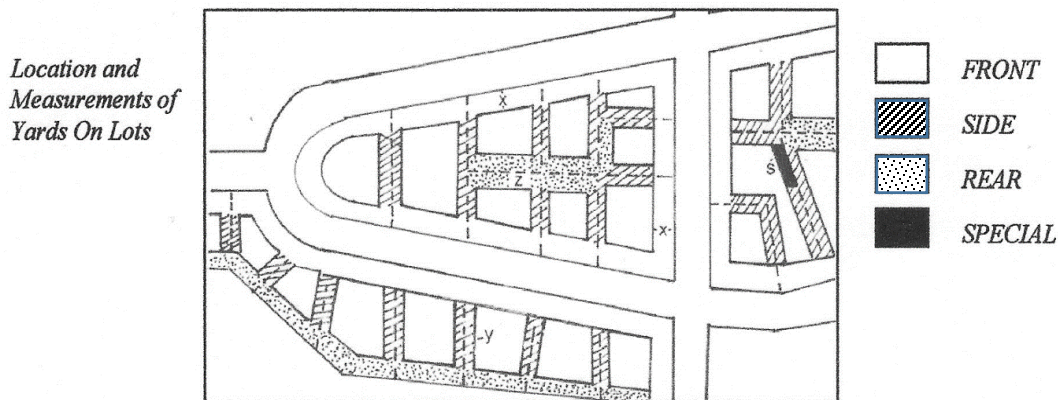
conditions peculiar to the real property and not the result of the actions or desires of the owner of such real property, a literal enforcement of the requirements of the Ordinance would result in unnecessary and undue hardship. Relaxation of the requirements of the Ordinance would result in unnecessary and undue hardship. Relaxation of the requirements of the Ordinance shall apply only to height, area and size of a building or structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited by this Ordinance shall not be allowed by relaxation of the requirements of the Ordinance, nor shall any relaxation of the requirements of this Ordinance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district or because of conditions created by the owner of said real property.

**303.123 VEHICLE:** Any device with a chassis and wheels or originally constructed with chassis and wheels, or runners, designed for the conveyance of persons or objects.

**303.124 WALL:** A vertical structure which encloses, divides, supports or protects.

**303.125 YARD:** An open space on the same lot with building, buildings, structure or structures, lying between the front, side or rear wall of such building, buildings, or such structure or structures and the nearest lot line, unoccupied except for specific minor structures permitted to be located in this open space by this Ordinance.

**303.126 YARD, FRONT:** A yard extending across the entire width of the lot between the front lot line and the nearest point of the primary building. For purposes of determining yard requirements for corner and through lots, all sides of a lot abutting a street shall be considered a front yard and shall comply with the requirements thereof. (Refer to “X” on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).



**303.127 YARD, REAR:** A yard extending across the entire width of the lot between the rear lot line and the nearest part of the primary building. (Refer to “Z” on the LOCATION AND MEASUREMENT OF LOTS diagram).

**303.128 YARD, SIDE:** On single frontage lots, a yard extending along the side lot line from the front yard to the rear yard and lying between the side lot line and the nearest part of a primary building. On through lots, a yard extending along the side lot line from front yard to front yard and lying between the side lot line from the front yard to the opposite side lot line, lying between the side lot line and the nearest part of the primary building. (Refer to “Y” on LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

**303.129 YARD, SPECIAL:** A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” or “rear yard” clearly applies. In such cases, the Zoning Administrator

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shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the zoning district, determining which shall apply by the relationship of the portion of the lot on which the yard is to be located to the adjoining lot or lots with due regard to the orientation and location of buildings, structures and buildable areas thereon. (Refer to “S” on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

**303.130 YARD, TRANSITIONAL:** A yard in effect where a non-residential zoning district abuts or is adjacent across a street or alley from a residential zoning district.

**303.131 ZONING DISTRICT:** A portion of the zoned area of the City of Alma, Nebraska and the jurisdictional area of the City for which uniform regulations governing the use, height, area, size and intensity of the use buildings and structures, land and open space are established by this Ordinance.

**303.132 ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the City of Alma, Nebraska to administer and enforce the requirements of this Ordinance.

**303.133 ZONED AREA:** The area included in the various zoning districts established by this Ordinance as indicated on the Official Zoning Map of the City of Alma, Nebraska.

**303.134 ZONING REGULATIONS:** The requirements stipulated in this Ordinance as it may be amended from time to time.



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## **ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS**

### **SECTION 401 PLANNING COMMISSION RECOMMENDATIONS**

It shall be the purpose of the Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold one (1) or more public hearings thereon before submitting its final report to the Mayor and City Council and the Mayor and City Council shall not hold its public hearing on such zoning regulations and districts or take action on such until it has received the final support of the Planning Commission.

### **SECTION 402 ZONING DISTRICTS CREATED**

For the purpose of this Ordinance, there are hereby created the following types of zoning districts, zoning district regulations and zoning district designations for which all land contained within the corporate limits of the City of Alma, Nebraska and the jurisdictional area outside of the corporate limits of said City, as defined in Section 102 of this Ordinance, shall be divided:

AG	Agricultural District
CR	Conservation / Recreation District
R-1	Residential District
C-1	Central Business District
C-2	General Commercial District
I	Industrial District
AHO	Airport Hazard Overlay District

### **SECTION 403 OFFICIAL ZONING MAP**

The City of Alma, Nebraska and its jurisdictional area, as defined in Section 102 of this Ordinance is hereby divided into zoning districts, as indicated and shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the signature of the City Clerk and bearing the seal of the City under the following words: This is to certify that this is the Official Zoning Map referred to in the Section 403 of Ordinance No. \_\_\_\_\_ of the City of Alma, Nebraska, together with the date of the adoption of this Ordinance.

### **SECTION 404 OFFICIAL ZONING MAP CHANGES**

**404.10** If, in accordance with the provisions of this Ordinance, changes are made in the zoning district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the change or amendment has been approved by the City Council with an entry being made on the Official Zoning Map as follows: “On \_\_\_\_ (date) \_\_\_\_\_, by official action of the City Council, the following change(s) was / were made in the Official Zoning Map”, which entry shall be signed by the Mayor and attested by the signature of the City Clerk. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall be effective until such change and entry have been made on said Official Zoning Map.

**404.02** No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and shall be punishable as provided in Section 1102 of this Ordinance.

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**404.03** Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map, which shall be located in the Office of the City Clerk, shall be the final authority as to the current zoning status of all areas with the City of Alma, Nebraska and its jurisdictional area, as defined in Section 102 of this Ordinance.

## **SECTION 405 OFFICIAL ZONING MAP REPLACEMENT**

**405.01** 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 Ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, but no such map shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The prior map or any significant part thereof remaining, shall be preserved together with all available related amendment records.

**405.02** Each new Official Zoning Map shall be identified by the signature of the Mayor or attested by the signature of 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 \_\_\_\_ as part of Ordinance No. \_\_\_\_ of the City of Alma, Nebraska.

## **SECTION 406 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where uncertainty exists as to the boundaries of the zoning districts as shown on the Official Zoning Map, the following Rules shall apply:

**406.01** Boundaries indicated as approximately following the centerline of streets, highway, or alleys shall be interpreted as following such centerlines.

**406.02** Boundaries indicated as following platted lot lines shall be interpreted as following such platted lines.

**406.03** Boundaries indicated as approximately following the corporate limit lines of the City shall be interpreted as following such corporate limit lines.

**406.04** Boundaries indicated as approximately following railroad lines shall be interpreted as following a line midway between the main railroad tracks.

**406.05** Boundaries indicated as following the shore lines of a river, creek, canal, lake or other body of water shall be interpreted as following such shore lines and boundaries indicated as approximately following the centerline of a river, creek, canal, lake or other body of water shall be interpreted as following such centerline. In either instance, in the event of a change in the location of the shore line or centerline or any such body of water, the boundaries shall be interpreted as moving with such shore lines or centerlines.

**406.06** Boundaries indicated as parallel to or extensions of features indicated in Subsections 406.01 through 406.05 above shall be so interpreted and distances not specifically indicated on the Official Zoning Map shall be determined by the scale of said Official Zoning Map.

**406.07** Where a zoning district boundary line divides a lot which was a single ownership at the time of adoption of the Ordinance, the Board of Zoning Adjustment may permit the extension of the zoning district boundary for either portion of the lot into the remaining portion of the lot.

**406.08** In circumstances not covered by Subsections 406.07 above, or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Zoning Adjustment shall interpret the zoning district boundary.

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**SECTION 407 ANNEXATION RULE**

Annexation of land to the City of shall not affect the zoning applied to such annexed land prior to such annexation, except where annexation of land occurs which is outside the jurisdictional planning and zoning boundaries of the City as indicated on the Official Zoning Map, in which case the area annexed shall be zoned in a manner consistent with the Comprehensive Plan of the City and the Official Zoning Map shall be modified in a manner consistent with such additional jurisdictional and zoning area.

**SECTION 408 DISTRICT REGULATIONS**

District regulations for each zoning district as set forth in Section 402 of this Ordinance shall be as hereinafter described.

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## SECTION 409 AG AGRICULTURE DISTRICT

**409.01 INTENT:** This district is established for the purpose of protecting and preserving productive agricultural land and to avoid, as much as possible, agricultural versus urban use conflicts in the area surrounding the City by discouraging leap-frog urban development and avoiding the development of agricultural uses which would be incompatible with the existing and proposed urban uses within and around the City.

**409.02 OUTRIGHT ALLOWABLE USES AND STRUCTURES:** The following uses and structures shall be allowable uses outright without requiring a zoning permit or certificate of zoning compliance provided such uses and structures shall comply with the minimum lot area, setback, separation distance and other applicable requirements of this Ordinance.

1. Agriculture uses, as defined in Subsection 303.12 of this Ordinance, including irrigation facilities, but excluding:
  - A. Farm buildings, grain bins and related structures,
  - B. Residential dwellings, whether or not associated with an agricultural use,
  - C. Confined livestock feeding, as defined in Section 303.41 of this Ordinance,
  - D. Livestock auction barns or yards.
2. Orchards, including facilities for the storage and sale of produce grown on the premises.
3. Forestry, tree farming and plant nurseries, and vineyards excluding facilities for wine making or tasting.

**409.03 PERMITTED PRINCIPLES USES AND STRUCTURES:** The following uses and structures shall be permitted uses and structures, but shall require the issuance of a zoning permit and/or certificate of zoning compliance.

1. Barns, machine sheds, grain bins and other farm buildings.
2. Public or private golf courses and driving ranges, excluding miniature golf courses.
3. Parks, playgrounds, wildlife preserves, conservation areas, lakes, ponds and similar open space uses.
4. Greenhouses, plant nurseries and associated sales facilities.
5. Single-family residential dwellings, including manufactured and modular homes meeting the definitions for such homes and the performance standards for such homes as set forth in Subsection 303.87, Items 1 through 8 of the Ordinance, but excluding manufactured or mobile homes which do not meet said definition and standards, all subject to the following regulations and limitations:
  - A. The total number of residential dwellings shall not exceed one (1) dwelling per quarter-quarter section, unless a conditional use for a residential subdivision is approved by the City Council in accordance with the requirements and procedures set forth in Article 7 of this Ordinance.
  - B. The parcel on which such dwelling is located shall front on or have access to an existing public city street or public county roadway other than a roadway classified by the Harlan County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or

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other unimproved roadway, the owner of such parcel shall be responsible for the cost of improving such roadway to County standards before the County shall agree to accept maintenance by the County of such roadway and further provided that if such parcel is located on any other unimproved roadway, the owner of such parcel shall be responsible for the costs of improving such roadway to County standards and shall be responsible for the maintenance of such roadway unless the Harlan County Board of Commissioners shall agree to accept such roadway for County maintenance. Harlan County shall not, however, be committed to accepting such roadway even if such roadway is improved to County standards by the owner(s) of such roadway.

6. Churches, temples and similar religious uses, excluding buildings used all or in part for the general (non-religious) education of youth where the education curriculum is similar to that of a public school.
7. Public utility storage or maintenance yards, buildings or administrative offices for such utilities, below ground and above ground public utility water storage tanks, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other non-wind energy towers less than thirty-five (35) feet in height.
8. Fire stations, electric utility substations, electric utility distribution systems and associated uses, above ground and below ground telephone, cable and data transmission systems and other transmission systems conveying materials other than gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency.
9. On-site wind energy systems, subject to the requirements and limitations set forth in Section 523, Supplemental Regulations, of this zoning ordinance.
10. Kennels, as defined in Section 303.74 of this Ordinance, subject to the following limitations and requirements.
  - A. Any kennel shall be located at least one-half (1/2) mile from any undeveloped lot of record less than twenty (20) acres in area, school, church, public use area or dwelling unit not of the same ownership and on the same premises as the kennel unless an impact easement, as defined in Section 303.71 is negotiated with the owner(s) of any such lot of record, school, church, dwelling unit or public use area, in which case such kennel may be located closer than one half (1/2) mile to any such lot of record, school, church, public use area or dwelling unit from which the impact easement is granted. Measurement of this distance shall be from the point of the kennel or kennel runs nearest such school, church, public use area or dwelling unit to the nearest wall of a school, church, or dwelling unit or the nearest boundary of a lot or record less than twenty (20) acres in area or public use area. Exceptions to the minimum separation distance may be authorized by conditional use where the type of animals kenneled will present no or very limited noise or other impacts on adjoining properties.
  - B. Disposal of dead animals, animal waste, bedding and other kennel waste material shall be in accordance with the requirements of the Nebraska Department of Agriculture and applicable requirements of Title 124 of the Nebraska Department of Environmental Quality.
  - C. The owner of any kennel shall have a license / permit for a kennel as required by the Nebraska Department of Agriculture.

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D. Any signage identifying a kennel shall be set back from the right-of-way line of any roadway by a distance not less than ten (10) feet and surface area of such sign shall not exceed forty (40) square feet per side, subject to the limitations of Section 520.07 of this Ordinance.

11. Aquaculture uses as defined in Section 303.16 of this Ordinance.
12. Day care and child care uses, when conducted in an occupied residential dwelling by the occupants of such dwelling.
13. Solar installations subject to the requirements and limitations set forth in Section 525 of this Ordinance.

**409.04 PERMITTED ACCESSORY USES OF STRUCTURES:**

1. Buildings and uses customarily associated with, incidental to and located on the same lot with a permitted use or approved conditional use. (*Refer to Section 512 of this Ordinance for limitations on accessory buildings.*)
2. Radio antennae and television satellite receiver antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty-four (24) inches in diameter shall be located in the side or rear yard.
3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Ordinance.
4. Home occupations and home-based businesses, as regulated in Section 514 of this Ordinance.

**409.05 CONDITIONAL USES AND STRUCTURES:** After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Cemeteries,
2. Public schools, private schools and schools affiliated with a church or religion,
3. Communications, microwave, cellular communications or other non-wind energy towers in excess of thirty-five (35) feet in height, provided that such towers shall be separated from the property line of any residentially zoned property by distance equal to the height of the tower and shall comply with all provisions of any applicable Airport Hazard regulations as set forth in Section 414 of this Ordinance.
4. Sewage treatment plants and facilities, sanitary landfills and recycling or waste composting centers,
5. Rock, sand, gravel or other mineral extraction or processing site,
6. Airports, aircraft landing strips and heliports,
7. Wineries and breweries,
8. Ethanol and biofuel production facilities,
9. Agricultural seed production and agricultural research uses,

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10. General welding and agricultural equipment repair businesses, veterinary clinics, seed sales and other agricultural service establishments engaged in providing horticultural, animal husbandry products or services to area agricultural producers provided that there is no sale of machinery, agricultural equipment or any other products on the premises except for sale of merchandise directly incidental to the service provided,
  11. Commercial grain storage and bulk fertilizer uses,
  12. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 523, Supplemental Regulations, of the Ordinance,
  13. Fish hatcheries, wild life management areas, wildlife conservation areas, game farms and commercial hunting and fishing including lodges or other buildings devoted to the support of such hunting and fishing activities.
  14. Solar farms meeting the requirements of Section 526 of this Ordinance.

**409.06 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically allowable, permitted, accessory or authorized as conditional uses shall be prohibited in this zoning district.

**409.07 MINIMUM LOT AREA:**

1. The minimum lot area for uses listed in Section 409.03 that propose to utilize on-site water supply and sewer disposal systems shall be two (2) acres.
2. The minimum lot area for any lot on which sewage disposal facilities are not needed shall be one (1) acre.
3. The minimum lot area for conditional uses listed in Section 409.05 shall be the area appropriate to each conditional use, as recommended by the Commission and determined by the City Council in their review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that the minimum lot area shall not be less than one (1) acre.

**409.08 MINIMUM LOT WIDTH AND FRONTAGE:** The minimum lot width, measured at the minimum required front setback line, and the minimum lot frontage, measured at the front lot (right-of-way) line, for uses authorized in this district shall be as follows:

1. The minimum lot width for use listed in Section 409.03 which propose to utilize on-site water supply and sewer disposal systems shall be one hundred fifty (150) feet.
2. The minimum lot frontage for uses listed in Section 409.03 for which sewage disposal facilities are not needed shall be one hundred (100) feet.
3. The minimum lot width for conditional uses listed in Section 409.05 shall be the width and frontage appropriate to each conditional use, as recommended by the Commission and determined by the City Council in their preview and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided, however, that in no event shall the minimum lot width be less than one hundred fifty (150) feet for any lot on which on-site water supply and sewer disposal systems are proposed and one hundred (100) feet for any lot on which sewage disposal facilities are not needed..
4. The minimum lot frontage, including any deeded access or access easement, shall be fifty (50) feet.

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**409.09 MINIMUM YARD REQUIREMENTS:** The minimum yards or setbacks of any building from a property line shall be as follows:

1. Front Yard - Twenty-five (25) feet from the public street/road right-of-way line or street/road easement line.
2. Side Yard - Each side yard shall be ten (10) feet, provided that where any permitted use or authorized conditional use in this district other than a single-family dwelling unit abuts a residential zoning district the minimum side yard on the side adjoining such zoning district shall be fifty (50) feet.
3. Rear Yard - Twenty (20) feet, provided that where any permitted use or authorized conditional use other than single-family dwelling unit abuts a residential zoning district the minimum yard along a side lot line in the rear yard shall be fifty (50) feet and where any permitted use or authorized conditional use other than single-family dwelling unit abuts a residential zoning district to the rear, the rear yard shall be fifty (50) feet.

**409.10 MINIMUM HEIGHT:** No limitations, except for any applicable height restrictions of Section 415 of this Ordinance which is the AHO, Airport Hazard Overlay District.

**409.11 MAXIMUM LOT COVERAGE:** The maximum area of any lot which is occupied by buildings, structures, decks, patios, accessory buildings, ~~driveways and parking areas~~ shall not exceed fifty (50) percent of the lot area.

**409.12 OFF-STREET PARKING:** The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 515 through 518 of this Ordinance.



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## **SECTION 410 CR CONSERVATION / RECREATION DISTRICT**

**410.01 INTENT:** This district is established for the purpose of protecting and preserving the backwater areas of the Harlan County Lake, which are not suited to agricultural production or urban development and other areas between the built-up urban areas of the City and the Harlan County Lake which are to be reserved for green space and outdoor recreation uses.

**410.02 PERMITTED PRINCIPLES USES AND STRUCTURES:** The following uses and structures shall be permitted uses and structures, but shall require the issuance of a zoning permit and/or certificate of zoning compliance.

1. Public or private golf courses and driving ranges, excluding miniature golf courses.
2. Parks, wildlife preserves, conservation areas, lakes, ponds and similar open space uses.
3. Plant nurseries.
4. Recreational vehicle and other campgrounds.
5. Other open space public uses and utility distribution facilities,
6. Flood control facilities,

**410.03 PERMITTED ACCESSORY USES OF STRUCTURES:**

1. Structures and uses customarily associated with, incidental to and located on the same lot with a permitted use or approved conditional use.
2. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Ordinance.

**410.04 CONDITIONAL USES AND STRUCTURES:** After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Fish hatcheries, wild life management areas, wildlife conservation areas, game farms and commercial hunting.

**410.05 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

1. The minimum lot area for uses listed in Section 410.2 shall be unrestricted.
2. The minimum lot area for conditional uses listed in Section 410.4 shall be the area appropriate to each conditional use, as recommended by the Commission and determined by the City Council in their review and authorization of each conditional use in accordance with Article 7 of this Ordinance.

**410.06 MINIMUM LOT WIDTH AND FRONTAGE:** The minimum lot width, measured at the minimum required front setback line, and the minimum lot frontage, measured at the front lot (right-of-way) line, for uses authorized in this district shall be as follows:

1. The minimum lot width for use listed in Section 410.02 shall be unrestricted.

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2. The minimum lot width for conditional uses listed in Section 410.04 shall be the width and frontage appropriate to each conditional use, as recommended by the Commission and determined by the City Council in their preview and authorization of each conditional use in accordance with Article 7 of this Ordinance.
  3. The minimum lot frontage, including any deeded access or access easement, shall be fifty (50) feet.

**410.07 MINIMUM YARD REQUIREMENTS:** The minimum yards or setbacks of any building from a property line shall be as follows:

1. Front Yard - Twenty-five (25) feet from the public street/road right-of-way line or street/road easement line.
2. Side Yard - Each side yard shall be a minimum of six (6) feet.
3. Rear Yard - Each rear yard shall be a minimum of six (6) feet.

**410.08 MINIMUM HEIGHT:** No limitations, except for any applicable height restrictions of Section 415 of this Ordinance which is the AHO, Airport Hazard Overlay District.

**410.09 MAXIMUM LOT COVERAGE:** The maximum area of any lot which is occupied by structures shall not exceed ten (10) percent of the lot area.

**410.10 OFF-STREET PARKING:** The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 515 through 518 of this Ordinance.

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## **SECTION 411 R-1 RESIDENTIAL DISTRICT**

**411.01 INTENT:** This district is established for the purposes of providing and preserving areas within the City and areas within the zoning jurisdiction area of the City for low to high density residential uses, to encourage the development of alternative housing styles which make more efficient use of the land and public infrastructure and create more usable open spaces while maintaining building height and building mass compatibility of such alternative housing styles with single-family detached housing, which will encourage the redevelopment of lots with the older residential areas of the City and for purpose of protecting such residential areas from development of incompatible land uses in order to promote and maintain a stable residential environment.

### **411.02 PERMITTED PRINCIPAL USES AND STRUCTURES:**

1. Single-family, detached and attached (zero lot line) dwellings, two-family (duplex) dwellings, multi-family dwellings, townhouses, including manufactured homes meeting the definition for such and the performance standards for such homes as set forth in Subsection 303.87 of this Ordinance, and including modular homes as defined in Subsection 303.91 of this Ordinance, but excluding mobile homes, as defined in Subsection 303.88 of this Ordinance and excluding tiny homes with less than five hundred (500) square feet of living area on the main floor.
2. Medical facilities including but not limited to medical clinics, hospitals, nursing and convalescent homes, assisted living homes and hospice centers,
3. Parks, playgrounds, golf courses and other open space recreation uses, except miniature golf courses, water parks and skeet or other shooting ranges,
4. Churches, temples and similar religious uses, excluding buildings used all or in part as schools or for (non-religious) education of youth where the education curriculum is similar to that of public school,
5. Horticultural uses customary to urban residential uses,
6. Temporary uses in accordance with Section 521 of this Ordinance,
7. Raising of crops, pasturing of livestock (in accordance with applicable City ordinances), but excluding the feeding of any type of livestock in buildings or pens and excluding any buildings for agricultural equipment storage, grain storage bins or buildings, buildings for the raising or management of livestock or other buildings which supports agricultural operations on the premises,
8. Below ground and above ground public utility water storage tanks and communications, microwave, cellular communications or other non-wind energy towers less than thirty-five (35) feet height.
9. On-site wind energy systems, subject to the requirements and limitations set forth in Section 523, Supplemental Regulations, of this Ordinance.

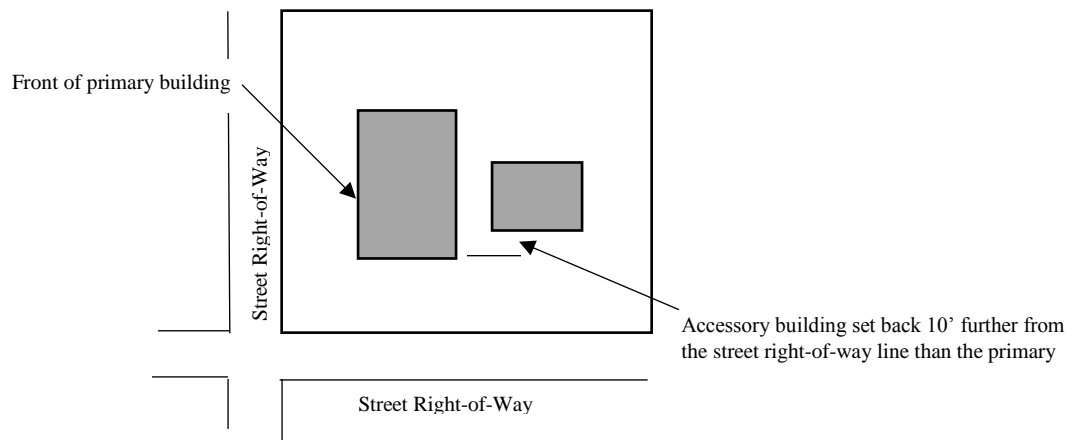
### **411.03 PERMITTED ACCESSORY USES AND STRUCTURES:**

1. Garages, carports, patios, outbuildings for storage and other similar structures customary and incidental to the permitted uses and authorized conditional uses, subject to the following limitations:
  - A. Accessory buildings shall not exceed one hundred (120) twenty square feet in floor area for each one thousand (1,000) square feet of lot area, as defined in Section 303.79 of

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this Ordinance, provided that maximum lot coverage for all buildings and other lot coverage features shall not exceed the maximum lot coverage limitation set forth in Section 411.10 below.

- B. Accessory buildings shall not exceed one (1) story in height and the maximum height to the highest point of the roof shall not exceed twenty-five (25) feet except when the yard along a side or rear lot line is two (2) feet or more but less than six (6) feet the maximum height to the highest point of the roof shall be fourteen (14) feet.
- C. Accessory buildings on interior lots, as defined in Section 303.83 of this Ordinance shall be permitted in side or rear yards only.
- D. Accessory buildings on corner lots, as defined in Section 303.80 of this Ordinance, shall be located in the yard opposite the front of the residential dwelling and be set back from the street right-of-way line by a distance that is ten (10) feet greater than the residential dwelling is set back from said street (refer to drawing below).



- E. Accessory buildings shall not be placed on any recorded utility or other easement.
- F. Accessory buildings shall not include steel shipping containers, buildings or structures with canvas, plastic, unpainted or galvanized steel, tin or other non-customary residential dwelling building materials used for the roof or walls,
- G. Accessory buildings shall not include buildings for storage of agricultural equipment, grain, for the raising of livestock or other agricultural use.
- H. Accessory buildings shall be of a color and material comparable the primary dwelling on the premises.
- I. Accessory garages and non-commercial storage buildings in a residential zoning district may be established prior to the establishment of the residential dwelling (principle building) provided that such building shall comply with the following requirements and limitations:
  - 1) The maximum floor area shall not exceed one hundred twenty (120) square feet for each one thousand (1,000) square feet of lot area or nine hundred (900) square feet, whichever is lesser.
  - 2) The number of such accessory buildings shall not exceed two (2) with the total floor area not exceeding nine hundred (900) square feet.

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- 3) Such accessory building shall be set back at least thirty-five (35) feet from the public street right-of-way line or private street easement line and shall be so located as to reserve adequate space for the establishment of the primary building.
  - 4) Such accessory building shall not be used as commercial rental storage building;
  2. One (1) attached or detached residential apartment on the same lot as a primary residential dwelling, provided such apartment structure shall comply with all minimum yard requirements and maximum lot coverage limitations of this zoning district and provided that only one (1) additional off-street parking space may be added.
  3. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty-four (24) inches in diameter shall be located in the side or rear yard only.
  4. On-site signs, excluding billboards, related to non-residential permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Ordinance.
  5. Home occupations and home-based businesses, as regulated in Section 514 of this Ordinance.

#### **411.04 CONDITIONAL USES AND STRUCTURES:**

1. Public or private schools, colleges, and similar education facilities,
2. Public use of an administrative, service or cultural nature including libraries, museums, fire stations, administrative offices and similar uses,
3. Electric distribution substations, regulator stations and communications equipment buildings for such utilities,
4. Day care and child care centers.
5. Bed and Breakfast uses,
6. Mobile home and tiny home park/court or subdivision, developed in accordance with the standards set forth in Section 522 of this Ordinance.
7. Agricultural buildings, non-commercial grain storage bins and similar structures designed to support existing agricultural operations.
8. Communications, micro-wave, cellular communications or other non-wind energy towers in excess of thirty-five (35) feet in height in accordance with the requirements of Section 517 of this Ordinance and related equipment buildings.
9. Commercial mini-storage units.
10. Other uses, determined at the recommendation of the Commission and determination by the City Council, to be comparable with other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

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**411.05 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district. Confined feeding of livestock of any kind in buildings or pens is prohibited in this zoning district.

**411.06 MINIMUM LOT AREA:**

1. The minimum lot area for uses listed in Section 411.02 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum lot coverage requirements and limitations specified in this zoning district and further provided that for lots on which on-site water supply and sewage disposal systems are to be utilized, the minimum lot size shall be two (2) acres.
2. The minimum lot area for conditional uses listed in Section 411.04 shall be the area appropriate to each conditional use, as determined by the City Council upon recommendation by the Planning Commission in their review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that where on-site water supply and sewage disposal systems are to be utilized, the minimum lot size shall be two (2) acres.

**411.07 MINIMUM LOT WIDTH AND FRONTAGE:**

1. The minimum lot width for uses listed in Section 411.02 shall be unrestricted, provided that each lot shall provide marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum lot coverage requirements and limitations specified in this zoning district.
2. The minimum lot width for conditional uses listed in Section 411.04 shall be the area appropriate to each conditional use, as determined by the City Council upon recommendation by the Planning Commission in their review and authorization of each conditional use in accordance with Article 7 of this Ordinance.
3. The minimum lot frontage, including any deeded access or access easement, shall be fifty (50) feet.

**411.08 MINIMUM YARD REQUIREMENTS:** The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (*Refer to Section 502 of this Ordinance for required minimum yard and setback regarding eaves, cornice overhangs, awnings, balconies, exceptions and the like.*)

1. Front Yard - Twenty-five (25) feet from the public street/road right-of-way line or street/road easement line.

For developed areas, as defined in Subsection 303.48 of this Ordinance, the required front yard shall be the average of the existing front yards or twenty-five (25) feet.

2. Side Yard - For all uses, except accessory buildings, each side yard shall be a minimum of six (6) feet, provided that:
  - A. Where the side yard of any residential use abuts a commercial or industrial zoning district, the side yard abutting such commercial or industrial zoning district shall be a minimum of fifty (50) feet.
  - B. Where any side yard of a townhouse or a two or more-story multi-family residential use abuts a residential use other than another townhouse or two

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or more-story multi-family use, the side yard abutting such non-townhouse or non-two or more-story multi-family residential use shall be a minimum of fifty (50) feet.

- C. Where any use, other than a residential use, which is permitted outright or by conditional use in this district, abuts a residentially zoned lot on the side, the minimum side yard on the side adjoining such lot shall be a minimum of fifty (50) feet
- D. For zero lot line housing, the side yard setback shall be zero (0) along the common wall.

For accessory buildings, the minimum side yards shall be as set forth in Section 411.03 above.

- 3. Rear Yard - The minimum yard from the rear lot line shall be twenty (20) feet and the minimum yard from any side lot line in the rear yard shall be six (6) feet, provided that where any permitted use or conditional use authorized in this district other than a single family detached or attached dwelling unit, a two-family dwelling unit or single story multi-family residential use, abuts a residentially zoned lot to the rear, the minimum yard from the rear lot line and a side lot line in the rear yard shall be fifty (50) feet.

For accessory buildings, the minimum rear yards shall be as set forth in Section 411.03 above.

**411.09 MAXIMUM HEIGHT:** The maximum height for any structure or building shall be fifty (50) feet, except for allowable wind generation towers which meet the height limitations of Section 523 of this Ordinance, all subject to any applicable height restriction of Section 415 of this Ordinance, which is the AHO, Airport Hazard Overlay District regulations.

**411.10 MAXIMUM LOT COVERAGE:** The maximum area of any lot which is occupied by buildings, structures, decks, patios, accessory buildings, areas shall not exceed seventy (70) percent of the lot area.

**411.11 OFF-STREET PARKING:** The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Sections 515 through 517 of this Ordinance.

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## **SECTION 412      C-1      CENTRAL BUSINESS DISTRICT**

**412.01 INTENT:** This district is intended to provide a commercial area for those establishments serving the general shopping, business service, financial and professional service needs of the trade area, in particular those establishments customarily oriented to the pedestrian shopper. The district is intended to preserve the central business area of the City as a primary shopping, service and governmental center while providing the flexibility of land uses and development standards to allow the central business area to adjust to changes in shopper preferences and the development of a tourist-oriented center.

### **412.02 PERMITTED PRINCIPAL USES AND STRUCTURES:**

1. Banks and similar financial service uses,
2. Retail sales of comparison and convenience goods,
3. Convenience stores and food service uses including grocery stores, delicatessens, meat markets, bakeries, and restaurants, including outdoor restaurants and sidewalk cafes,
4. Personal and business service uses,
5. Professional service uses such as law, real estate brokerage, medical and dental offices, financial investment advice and similar service uses,
6. Mortuaries and funeral parlors,
7. Indoor commercial recreation uses such as auditoriums, theaters, bowling alleys, billiard rooms, dance studios, video game rental and game rooms,
8. Special service uses including day care centers, youth centers, senior and social centers,
9. Private clubs or lodges, philanthropic and charitable institution uses, athletic clubs, health studios, excluding adult business uses,
10. Communications uses such as newspaper publishing uses, photocopying shops, radio and television studios, telecommunication uses, but excluding exterior warehousing of any equipment or products,
11. Public service and governmental uses, excluding exterior warehousing of equipment or products,
12. Hotels, motels, bed and breakfast and similar uses catering to the traveling public and tourists,
13. Lounges, taverns and night clubs, excluding adult business uses,
14. Off-street parking lots and structures,
15. Lumber yards, building supply, hardware and appliance stores,
16. Antique and craft stores,
17. Temporary uses in accordance with Section 521 of this Ordinance,



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18. Utility buildings or administrative offices for such utilities, below ground and above ground public utility water storage tanks, communications, microwave, cellular communications or other non-wind energy towers less than thirty-five (35) feet height., but excluding distribution substations, regulator stations and storage yards.
  19. On-site wind energy systems, subject to the requirements and limitations set forth in Section 523, Supplemental Regulations, of this Ordinance.
  20. Automobile parts, repair, maintenance and tire stores not involving the sale of gasoline or fuel.
  21. Solar installations subject to the requirements and limitations set forth in Section 525 of this Ordinance.

**412.03 PERMITTED ACCESSORY USES AND STRUCTURES:**

1. Residential Dwelling Units on the second floor or higher floors. (Ord. 2019-32. Passed 8-19-19)
2. Drive-thru service facilities.
3. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty-four (24) inches in diameter shall be located in the side or rear yard only.
4. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Ordinance.
5. Outdoor display or merchandise, provided such display shall not be interpreted as meaning the storage, stockpiling or warehousing of materials which are not immediately available for purchase.
6. Art and antique galleries and artists' studios.
7. Other accessory uses and structures customarily associated with and incidental to the principal uses.

**412.04 CONDITIONAL USES AND STRUCTURES:** After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Automobile service stations.
2. Storage buildings and garages, but only if it is associated with an on-site business and there are not any curb cuts or garage doors on Main Street between the intersection of Main Street and Brown Street and the intersection of Jewell Street.
3. Conversions from commercial building use on the ground floor to single-family residential use on the ground floor, but only if the residential use is associated with an on-site business and only if the front of the residence is not on Main Street between the intersection of Main Street and Brown Street and the intersection of Jewell Street
4. Schools, colleges and similar private or public educational uses.
5. Communications, microwave, cellular communications or other non-wind energy towers thirty-five (35) feet or more in height, provided that such towers shall be separated from the property line of any residentially zoned property by distance equal to the height of the tower

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and shall comply with all provisions of any applicable airport hazard regulations as set forth in Section 415 of this Ordinance.

6. Other office, business and commercial service uses, determined at the recommendation of the Commission and determination by the City Council, to be comparable with other uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

**412.05 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

**412.06 MINIMUM LOT AREA:** No limitations

**412.07 MINIMUM LOT WIDTH AND FRONTAGE:** No limitations

**412.08 MINIMUM YARD REQUIREMENTS:** The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (Refer to Section 502 of this Ordinance for required minimum yard and setback regarding eaves, cornice overhangs, balconies, exceptions and the like)

1. Front Yard - Zero (0) feet
2. Side Yard - Zero (0) feet
3. Rear Yard - Zero (0) feet

**412.09 MAXIMUM HEIGHT:** The maximum height for any structure or building shall be fifty (50) feet, except for applicable height restriction of Section 415 of this Ordinance, which is the AHO, Airport Hazard Overlay District regulations.

**412.10 MAXIMUM LOT COVERAGE:** No limitation

**412.11 OFF-STREET PARKING:** The minimum number of off-street parking spaces required for each use permitted outright or authorized as a conditional shall be in accordance with the requirements of Sections 518 of this Ordinance.

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## **SECTION 413 C-2 GENERAL COMMERCIAL DISTRICT**

**413.01 INTENT:** This district is intended primarily for application along and near the major highway corridors serving the City to provide areas for development of highway-orientated commercial uses offering goods and services to the motoring public and the development of general business uses.

### **413.02 PERMITTED PRINCIPAL USES AND STRUCTURES:**

1. Uses permitted in the C-1 Central Business District, including the development of shopping centers and malls,
2. Sales, rental and display of automobiles, trucks, campers, recreational vehicles, manufactured homes, boats and agricultural equipment, provided that all servicing and maintenance shall be conducted entirely within enclosed buildings,
3. Automobile and tire service use and auto or truck body repair uses, provided that all repair activities shall be conducted in entirely enclosed buildings, but excluding the dismantling or salvaging of vehicles or the outdoor storage of damaged or inoperable vehicles,
4. Recreational vehicle parks and campgrounds,
5. Commercial recreational facilities such as miniature golf courses, golf driving ranges, drive-in theaters, riding stables, museums, bowling alleys and similar recreational uses,
6. Car and truck wash use,
7. Special service uses such as model home display and sales, building material sales, non-livestock auction rooms, plant nurseries, greenhouses, monument sales and similar special service uses,
8. Animal feed, crop and garden seed sales uses,
9. Printing, lithography and similar uses,
10. Wholesale, warehouse, distribution, storage and transfer uses,
11. Engineering, architecture, legal, accounting and similar professional service uses,
12. Vocational and industrial training schools,
13. Trade shops, including plumbing, electrical, heating and air conditioning, cabinetry and similar uses,
14. Cold storage and food locker establishments,
15. Truck stops and convenience stores,
16. Lumber yards and hardware establishments,
17. Raising of crops, pasturing of livestock (in accordance with any other applicable City ordinances) and other open space agricultural uses, but excluding agricultural production related grain bins and building or the confined feeding of livestock,
18. Governmental offices, maintenance buildings and equipment storage yards,

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19. Radio television and communication offices and transmitter uses,
  20. Orchards, including the retail sales of produce and the sales of Christmas trees,
  21. Churches, temples and similar religious uses, excluding buildings used all or in part for the general (non-religious) education of youth where the education curriculum is similar to that of a public school.
  22. Temporary uses in accordance with Section 521 of this Ordinance,
  23. Utility buildings or administrative offices for such utilities, below ground and above ground public utility water storage tanks, communications, microwave, cellular communications or other non-wind energy towers less than thirty-five (35) feet height, distribution substations, regulator stations and storage yards.
  24. Billboards and on-site advertising signs in accordance with the requirements of Section 516 of this Ordinance.
  25. Veterinary clinics, agricultural equipment sales and repair uses.
  26. On-site wind energy systems, subject to the requirements and limitations set forth in Section 523, Supplemental Regulations, of this zoning Ordinance.
  27. Commercial storage buildings and uses.
  28. Adult business establishments, as defined in Section 303.04 of this Ordinance, subject to the following limitations and requirements:
    - A. No such adult establishment shall be located closer than six hundred (600) feet to any other adult business use and not closer than six hundred (600) feet to any residential dwelling of any type, any church, synagogue or other religious use, any school or any park. Measurement of this minimum distance shall be made in a straight line, without regard to intervening structures or objects, from the nearest wall of the building housing an adult business establishment to the nearest wall of any residential dwelling, the nearest wall of any church, synagogue, other religious building, other building housing an adult business establishment or the nearest property line of any school or park. An adult establishment shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Plan of the City of Alma, Nebraska.
    - B. An adult establishment shall post a sign at the entrance of the premises which shall state the nature of the business and that no person under the age of eighteen (18) is allowed on the premises. This section shall not be construed to prohibit the owner of such establishment from setting an older age limitation for access to the premises.
    - C. The following activities shall be prohibited in any adult establishment:
      - 1) No adult establishment shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in Sections 303.109 and 303.108 of this Ordinance by display, decoration, sign, show window or other opening from any public way or from any property not approved as an adult establishment.

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- 2) No owner / operator of any adult establishment or any officer, associate, member, representative, agent, or employee of such establishment shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State of Nebraska.
  - 3) No part of the interior of any adult establishment shall be visible from the pedestrian sidewalk, walkway or vehicle parking area.

29. Solar installations subject to the requirements and limitations set forth in Section 525 of this Ordinance.

**413.03 PERMITTED ACCESSORY USES AND STRUCTURES:**

1. Drive-thru service facilities.
2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty-four (24) inches in diameter shall be located in the side or rear yard only.
3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Ordinance.
4. Outdoor display or merchandise, provided such display shall not be interpreted as meaning the storage, stockpiling or warehousing of materials which are not immediately available for purchase.
5. Accessory uses and structures customarily associated with and incidental to the principal uses.

**413.04 CONDITIONAL USES AND STRUCTURES:** After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Kennels,
2. Light Industrial uses, provided that:
  - A. all activities of such uses, including the storage or warehousing of raw materials or products produced  
Occur within completely enclosed buildings,
  - B. no emission of gases, odor, dust, smoke, noise, glare, heat or vibration is detectable beyond the property line of the site on which the use is located,
  - C. all wasted materials produced shall be stored indoors or outdoors, provided that all outdoor storage of such waste materials shall be in containers which are not visible from the street or streets serving the use or any abutting residential zoning district.
  - D. such light industrial use shall not result in incompatibilities with adjoining land uses.
3. Communications, microwave, cellular communications or other non-wind energy towers thirty-five (35) feet or more in height, provided that such towers shall be separated from the property line of any residentially zoned property by distance equal to the height of the tower

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and shall comply with all provisions of any applicable Airport Hazard regulations as set forth in Section 415 of this Ordinance.

4. Solar farms subject to the requirements and limitations set forth in Section 526 of this Ordinance.
5. Other office, business and commercial service uses, determined by the City Council after review and recommendation of the Planning Commission, to be comparable with other uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

**413.05 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

**413.06 PERFORMANCE STANDARDS:** The following conditions shall apply to all uses within this zoning district:

1. All activities of uses in this district shall be within entirely enclosed buildings, except for outdoor display of products and merchandise available for sale.
2. Outdoor storages of junk, debris, abandoned vehicles or parts thereof shall be prohibited.
3. All outdoor lighting and direct lighting of signs shall be shielded so that there is no direct beaming of light from the source to neighboring properties.

**413.07 MINIMUM LOT AREA:**

1. The minimum lot area for uses listed in Section 413.02 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking and loading areas, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot area for conditional uses listed in Section 413.04 shall be the area appropriate to each conditional uses, as determined by the City Council in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance.

**413.08 MINIMUM LOT WIDTH AND FRONTAGE:**

1. The minimum lot width for uses listed in Section 413.02 shall be unrestricted, provided that each lot shall provide marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot width for conditional uses listed in Section 413.04 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance.
3. The minimum lot frontage, including any deeded access or access easement, shall be fifty (50) feet.

**413.09 MINIMUM YARD REQUIREMENTS:** The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (*Refer to Section 502 of this Ordinance for required minimum yard and setback regarding caves, cornice overhangs, balconies, exceptions and the like*)

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1. Front Yard - Twenty-five (25) feet from the public street/road right-of-way line or street/road easement line.

For developed areas, as defined in Subsection 303.48 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

2. Side Yard - The minimum side yard shall be ten (10) feet where the lot line abuts another commercial or industrial zoning district. Where the side lot line abuts a residential district the minimum side yard shall be twenty (20) feet and a landscaped screen, as defined in Subsection 303.76 of this Ordinance shall be installed and maintained on or inside the property line. In determining the side yard requirements such side yard may be measured to the centerline of the any abutting alley which is dedicated for public use.
3. Rear Yard - The minimum yard from a side lot line in the rear yard and from the rear lot line shall be (10) feet where the lot line abuts another commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum yard from a side lot line in a rear yard and from the rear lot line shall be twenty (20) feet and a landscape screen, as defined in Subsection 303.76 of this Ordinance shall be installed and maintained on or inside the property line. In determining the rear yard requirements, such rear yard may be measured to the centerline of any abutting alley which id dedicated for public use.

**413.10 MAXIMUM HEIGHT:** The maximum height for any structure or building shall be fifty (50) feet, except for erected towers, which shall be subject to applicable height restrictions of Section 415 of this Ordinance, which is the AHO, Airport Hazard Overly District regulations.

**413.11 MAXIMUM LOT COVERAGE:** No limitation

**413.12 OFF-STREET PARKING:** The minimum number of off-street parking spaces required for each use permitted outright or authorized as a conditional shall be in accordance with the requirements of Sections 515 through 517 of this Ordinance.

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## **SECTION 414 I INDUSTRIAL DISTRICT**

**414.01 INTENT:** This district is established to provide areas for a wide range of industrial and certain commercial uses which are able to meet certain performance standards to protect nearby non-commercial and on-commercial uses from land use conflicts or undesirable environmental impacts and to protect such industrial and commercial uses from negative impacts from other commercial and industrial uses not able to meet the performance standards

### **414.02 PERMITTED PRINCIPAL USES:**

1. Wholesale, warehouse, distribution, storage and transfer businesses,
2. Engineering or research laboratories, vocational or industrial training schools and data processing uses,
3. Printing and lithography uses,
4. Industrial uses including the manufacture, assembly, processing, fabrication, cleaning, testing or refining of products,
5. Cold storage and food locker establishments,
6. Automobile and truck repair and service business, including automotive body and painting businesses,
7. Trade shops, including plumbing, heating and air conditioning, electrical, cabinetry and similar service trade uses,
8. Temporary uses in accordance with Section 521 of this Ordinance,
9. Billboards and similar off-site signs in accordance with the regulations of Section 520 of this Ordinance,
10. Public utility storage or maintenance yards, buildings or administrative offices for such utilities, below ground and above ground public utility water storage tanks, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other non-wind energy towers less than thirty-five (35) feet in height,
11. On-site wind energy systems, subject to the requirements and limitations set forth in Section 523, Supplemental Regulations, of this zoning Ordinance.
12. Contractor's and construction equipment storage yards,
13. Grain elevators, feed mills, alfalfa mills and similar agricultural product processing mills including ethanol production plants, and related storage,
14. Power production plants and facilities,
15. Solar installations subject to the requirements and limitations set forth in Section 525 of this Ordinance.

### **414.03 PERMITTED ACCESSORY USES:**



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1. General office and sales rooms, medical and recreational facilities and watchman quarters associated with the permitted uses.
  2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty-four (24) inches in diameter shall be located in the side or rear yard or on the roof only.
  3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Ordinance.
  4. Accessory uses and structures customarily associated with and incidental to the principal uses.

**414.04 CONDITIONAL USES AND STRUCTURES:** After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Any use involving the storage, use or manufacture of hazardous materials, as defined by the U. S. Environmental Protection Agency, or explosive materials.
2. Heliports,
3. Public service uses, including police and fire stations, offices, equipment maintenance buildings, and similar public uses.
4. Communications, microwave, cellular communications or other non-wind energy towers in excess of thirty-five (35) feet in height, provided that such towers shall be separated from the property line of any residentially zoned property by distance equal to the height of the tower and shall comply with all provisions of any applicable Airport Hazard regulations as set forth in Section 415 of this Ordinance.
5. Animal rendering, animal slaughtering plants, including curing and tanning plants,
6. Production of asphalt products, concrete, and other paving materials including recycling of these and other construction materials.
7. Tar, tar paper and tar paper manufacturing or processing,
8. Manufacture of chemicals, gases, poisons, insecticide and herbicides.
9. Storage, processing of salvaging of automobiles, trucks, agricultural or other equipment, scrap and junk (junk or salvage yards).
10. Livestock auction barns and yards
11. Bulk fuel, and fertilizer plants,
12. Sand, gravel, mineral aggregate or production, screening, crushing, or processing operations.
13. Sanitary landfills, waste incinerators, solid waste recycling and composting operations
14. Solar farms subject to the requirements and limitations set forth in Section 526 of this Ordinance.

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15. Other industrial and commercial uses Other office, determined by the City Council after review recommendation of the Planning Commission, to be comparable with other uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

**414.05 PROHIBITED USES AND STRUTURES:** All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

**414.06 PERFORMANCE STANDARDS:** All uses permitted in this zoning district shall at all times comply with the following performance standards:

1. All activities, excluding those uses such as ethanol production plants, cracking plants, fertilizer production plants or similar uses which utilize production structures instead of buildings, not conducted within entirely enclosed buildings including storage or warehousing of raw materials or products produced shall be screened from view from any abutting property not included in an I, Industrial District in accordance with the requirement of Section 414.09 of this Ordinance
2. Emission of gases, odor, noise, glare, heat or vibration detectable beyond the property line of the site on which the use is located is prohibited.
3. Emission of dust or smoke beyond the property line of site on which the use is located shall not be of such quantity or concentration so as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or the public in general.
4. All activities involving the storage or salvaging of automobiles, truck, agricultural or other equipment and similar operations shall be screened from view from all adjoining streets and all abutting properties in included in an I, Industrial District by an opaque fence or evergreen tree landscape screen and said screen shall be maintained in good repair at all times
5. Any waste materials produced on the premises shall be stored outdoors, provided such materials are stored in containers which are not visible from the street(s) on which the use has frontage or access or any abutting residential zoning district and such containers will avoid the blowing of waste material or the attraction of insects or vermin.
6. All outdoor lighting and direct lighting of signs shall be shielded so that there is no direct beaming of light from the source to neighboring properties.

**414.07 MINIMUM LOT AREA:**

1. The minimum lot area for uses listed in Section 414.02 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking and loading areas, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot area for conditional uses listed in Section 414.04 shall be the area appropriate to each conditional use, as determined by the City Council in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance.

**414.08 MINIMUM LOT WIDTH AND FRONTAGE:**

1. The minimum lot width for uses listed in Section 414.02 shall be unrestricted, provided that each lot shall provide marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum rear yard coverage requirements specified in this district.

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2. The minimum lot width for conditional uses listed in Section 414.04 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance.
  3. The minimum lot frontage, including any deeded access or access easement, shall be fifty (50) feet.

**414.09 MINIMUM YARD REQUIREMENTS:** The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (*Refer to Section 502 of this Ordinance for required minimum yard and setback regarding caves, cornice overhangs, awnings, balconies, exceptions and the like*)

1. Front Yard - Twenty-five (25) feet from the public street/road right-of-way line or street/road easement line.

For developed areas, as defined in Subsection 303.48 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

2. Side Yard - The minimum side yard shall be ten (10) feet where the lot line abuts another commercial or industrial zoning district. Where the lot line abuts a residential district the minimum side yard shall be twenty (20) feet and a landscaped screen, as defined in Subsection 303.76 of this Ordinance shall be installed and maintained on or inside the property line. In determining the side yard requirements such side yard may be measured to the centerline of the any abutting alley which is dedicated for public use.
3. Rear Yard - The minimum yard from a side lot line in the rear yard and from the rear lot line shall be (10) feet where the lot line abuts another commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum yard from a side lot line in a rear yard and from the rear lot line shall be twenty (20) feet and a landscape screen, as defined in Subsection 303.76 of this Ordinance shall be installed and maintained on or inside the property line. In determining the rear yard requirements, such rear yard may be measured to the centerline of any abutting alley which id dedicated for public use.

**414.10 MAXIMUM HEIGHT:** The maximum height for any structure or building shall be unlimited, except for any applicable height restrictions of Section 415 of this Ordinance, which is the, Airport Hazard Overly District regulations and for uses located within three hundred (300) feet of any residential zoning district where such maximum height shall be fifty (50) feet.

**414.12 OFF-STREET PARKING:** The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 515 through 517 and Section 519 of this Ordinance.

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## SECTION 415 AHO AIRPORT HAZARD OVERLAY DISTRICT

**415.01 INTENT:** This district is established as an overlay district for application over any primary zoning district in all directions from the adjacent boundaries of the Alma Municipal Airport and any other qualifying airport for which an airport hazard approach zone extends into the planning and zoning jurisdiction area of Harlan County, Nebraska and is intended to prevent airport hazards and protect the public investment and utility of the airport.

### 415.02 DEFINITIONS:

1. **AIRPORT:** Any area of land or water designated and set aside that is used or intended to be used for landing and takeoff of aircraft, including any related buildings and facilities. Airport includes only public use airports with state or federally approved airport layout plans and military airports with military service approved military layout plans.
2. **AIRPORT HAZARD:** Any structure, tree or use of land which penetrates any approach, operation, transition or turning zone.
3. **AIRPORT HAZARD AREA:** The airport hazard area is any area of land or water upon which an airport hazard might be established if not prevented as provided in the Airport Zoning Act, but such shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition and turning zones.
4. **AIRPORT LAYOUT PLAN:** A scaled drawing of existing and proposed land, buildings and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.
5. **APPROACH ZONE:** A zone that extends from the end of each operation zone and is centered along the extended runway centerlines, described as follows:

#### A. FOR AN INSTRUMENT RUNWAY (EXISTING OR PROPOSED):

- 1) An approach zone extends ten (10) miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand (1,000) feet wide at the end of the zone nearest the runway and expands uniformly to sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone, and
- 2) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every fifty (50) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three (3) miles from such operation zone, the height limit resumes sloping one (1) foot vertically for every fifty (50) feet horizontally and continues to the ten-mile limit, and

#### B. FOR A VISUAL RUNWAY (EXISTING OR PROPOSED):

- 1) An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three (3) miles

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from the operation zone, the approach zone is three thousand seven hundred (3,700) feet wide, and

- 2) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every forty (40) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end.
6. **ELECTRIC UTILITY:** An electric utility means an overhead electric line, including poles or other supporting structures, owned or operated by an electric supplier for the transmission or distribution of electrical power to the electric supplier's customers.
7. **EXISTING RUNWAY:** An instrument or visual runway that is paved or made of turf that has been in constructed or is under construction.
8. **INSTRUMENT RUNWAY:** An existing runway with precision or non-precision instrument approaches as developed by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After September 6, 2013, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after public hearing on such designation.
9. **OPERATION ZONE:** A zone that is longitudinally centered on each existing or proposed runway. Operation zones are as follows:
  - A. For existing and proposed paved runways, the operation zone extends two hundred (200) feet beyond the ends of the runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends.
  - B. For existing and proposed instrument runways, the operation zone is one thousand (1,000) feet wide, with five hundred (500) feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is five hundred (500) feet wide, with two hundred fifty (250) feet on either side of the centerline.
  - C. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or surface of the ground, whichever is higher.
10. **PERSON:** Any individual, firm, partnership, limited liability company, corporation, company, association, joint stock association or body politic and includes trustee, receiver, assignee or other similar representation thereof.
11. **POLITICAL SUBDIVISION:** Any municipality, city, village or county.
12. **PROPOSED RUNWAY:** An instrument runway or visual runway that has not been constructed and is not under construction, but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval, to the Federal Aviation Administration.
13. **RUNWAY:** A defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.

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14. **STRUCTURE:** Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks and overhead transmission or distribution lines.
  15. **TRANSITION ZONE:** A zone that extends outward at a right angle to the runway centerline and upward at a rate of one (1) foot vertically for every seven (7) feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
  16. **TREE:** Any object of natural growth.
  17. **TURNING ZONE OUTER LIMIT:** The area located at a distance of three (3) miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone or transition zone. The height limit of the turning zone is one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
  18. **VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service approved layout plan or any planning documents submitted to the Federal Aviation Administration by a competent authority.

**415.03 HEIGHT RESTRICTIONS:** No building, transmission line, pole, tower, chimney, wires or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established nor shall any tree or other object of natural growth be allowed to grow above the heights described in Section 415.02, Subsections 5, 9, 15 and 17 immediately above.

**415.04 AIRPORT ZONING MAP:** The boundaries, operation zones, approach zones, transition zones and turning zones are indicated on the Airport Zoning Map for the Alma Municipal Airport, prepared by the Nebraska Department of Aeronautics as Map Drawing No. ZN-AMA-15. Said Airport Zoning Map is hereby made part of this Ordinance by reference.

**415.05 ZONING PERMIT AND CERTIFICATES OF ZONING COMPLIANCE REQUIREMENTS:**

1. A zoning permit or certificate of zoning compliance shall be required to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth which, when mature, would violate the height limitations of Section 415.03 above.
2. Application for a zoning permit / certificate of zoning compliance shall be as required under Sections 902.07 through 902.11 of this Ordinance.

**415.06 NON-CONFORMING STRUCTURES:** Unless otherwise limited by other any other section(s) of this Ordinance, within the zoned airport hazard area, any non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth may hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, provided that any such non-conforming use, structure or natural growth shall not increase

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in height or create a greater hazard to air navigation than existed on the effective date of this Ordinance or applicable amendment thereto. In accordance with Article 6 of this Ordinance, any non-conforming use which has been voluntarily abandoned for a period of twelve (12) consecutive months or which has been involuntary removed or damaged fire, wind or act of God, may be reconstructed provided such reconstruction shall be in conformity with the height limitations set forth in Section 415.03 above or applicable amendment thereto.

**415.07 MARKING OF NON-CONFORMING STRUCTURES:** Whenever the Zoning Administrator shall determine, or shall be notified that a specific non-conforming structure or object exists and has existed prior to the effective date of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals as recommended by the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lesser of said premise, but may be paid by the local airport board, municipality, county or other governmental entity or department.

**415.08 LAND USES:** Any use listed as an allowable, permitted, accessory or any use authorized as a conditional use in the primary zoning district over which this AHO, Airport Hazard Overlay district is applied shall be allowed in this overlay district, provided that all buildings, structures and other obstacles shall comply with the height limitations of Section 415.03 of this district.

**415.09 ADMINISTRATION AND ENFORCEMENT:** The Zoning Administrator of Alma, Nebraska shall administer and enforce these regulations, and shall be the administrative agency provided for in Section 3-319, R.R.S. 1943, and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act.

**415.10 BOARD OF ADJUSTMENT:** The Board of Adjustment of Alma, Nebraska shall be the Board of Adjustment with respect to these regulations, to have and to exercise the powers conferred by Section 3-320, R.R.S. 1943, and such other powers and duties as are conferred or imposed by law.

**415.11 VARIANCES:** In accordance with the procedures, requirements and limitations of Article 8, Subsection 802.03 of this Ordinance, a variance to the height limitations established in this overlay district may be requested. Where the Board of Adjustment finds that the proposed variance will not require any modification or revision to any approach or approach procedure as approved the Federal Aviation Administration and it is documented that the proposed structure or alteration of the structure will not require any modification of any airport minimum standards, the Board may find that a hardship exists in the form of peculiar and exceptional practical difficulties and, if so found, may grant a variance from the height restrictions of Section 415.03 above.

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

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## **ARTICLE 5: SUPPLEMENTAL REGULATIONS**

### **SECTION 501 APPLICATION**

The regulations set forth in the following Sections qualify and supplement all zoning district regulations and are declared to be part of the Ordinance.

### **SECTION 502 YARD REQUIREMENTS**

**502.01** Minimum yards shall be required along all public and private streets / roads as set forth in the zoning district regulations. Any yard abutting a street / road shall be deemed a front yard for purpose of determining yard.

**502.02** No principle or accessory building or structure or part thereof, except those structures listed in Section 503 of this Ordinance, shall project into a required front, side or rear yard,

**502.03** No eave, cornice overhang, balcony, bay window, sills, lintels, chimneys or similar architectural features of any building shall project into a required front, side or rear yard.

**502.04** No unenclosed or enclosed steps, porch, entrance platform, ramp, terrace, landing, deck or similar above grade structure shall project into a required front, side or rear yard. (Refer to Section 503.02)

### **SECTION 503 YARD EXCEPTIONS**

**503.01** At grade patios, driveways, parking areas, loading areas and similar at grade surfacing shall be permitted to encroach into any yard, and such surfaced areas shall not be included in the calculation of maximum lot coverage as set forth in each zoning district regulation.

**503.02** Notwithstanding the requirements of Section 502.04 of this Ordinance, canopies for drive through entrances to multi-family, group housing, assisted living, hospitals, nursing homes, convalescent centers, and canopies associated with commercial uses, except open air businesses and canopies over fuel pumps as regulated in Section 503.13 of this Ordinance, shall be permitted to encroach on a front yard, but shall not extend closer than twelve (12) feet to the front lot line.

**503.03** Unenclosed steps, porches, entrance platforms, handicap ramps, terrace, landing, deck or similar above grade structure may project into a front or rear yard, provided such projection shall not exceed eight (8) feet into the required front or rear yard. Projection of steps, porches, entrance platforms, ramps, terrace, landing, deck or similar above grade structure into a minimum side yard shall be prohibited. Unenclosed shall mean there is no wall, post, column, trellis, roof or structural component above standard railing height.

**503.04** Ornamental fences, open fences, screen fences, walls, and structural screens shall be permitted in any required yard, provided that in any residential district, any fence, wall, or structural screen located in the front yard shall not exceed a height of forty eight (48) inches, except that on corner lots a fence, wall or screen which covers not more than thirty percent (30%) of any front yard may be up to six (6) feet in height provided that such fence, wall or screen is set back from the right-of-way line of any street by minimum distance of twenty-five (25) feet and complies with the intersection visibility requirements of Section 509 of this Ordinance.

Any fence, wall or structural screen located in a side or rear yard of any non-residential district which abuts a residential zoning district shall not exceed a height of six (6) feet. The height of any fence, wall, or structural screen in a side or rear yard in any non-residential district which abuts any other non-residential zoning district shall not exceed a height of ten (10) feet. All such fences, wall,



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or structural screens shall comply with the requirements of Section 509 of this Ordinance with regard to driver visibility at street intersections.

All fences, walls or structural screens separating one lot from another shall have the same appearance on both sides.

**503.05** Nothing contained in this Section shall be deemed to prohibit the erection and maintenance of an open fence or chain link fence in any required yard, provided such open fence shall have at least seventy-five (75) percent unobstructed openings and shall comply with the requirements of Section 509 of this Ordinance with regard to driver visibility at street intersections.

**503.06** The use of any electrified or barbed wire fence is not permitted within the corporate limits of the City of Alma, Nebraska unless such area is zoned AG, Agricultural and is used for agricultural purposes.

**503.07** The provisions of this Section shall not apply to retaining walls.

**503.08** Open air businesses and fuel pump canopies may encroach up the yard as specified in Section 513 of this Ordinance.

## **SECTION 504 HEIGHT EXCEPTIONS**

The height limitations set forth in the zoning district regulations shall not apply to spires, belfries, cupolas, parapets, grain elevators, silos, grain legs, antennae, water towers, ventilators, chimneys or other roof appurtenance usually required to be placed above the roof level provided that said appurtenance is not intended for human habitation and that appurtenances such as towers for mechanical or structural necessity with a roof area equal to or in excess of fifty (50) percent of the first floor area of the building shall be considered part of the regulated height of the building, except for the limitations of Section 415 of this Ordinance, which is the Airport Hazard Overlay District.

## **SECTION 505 BUILDING RELOCATION**

No building or structure shall be moved from one lot or premise for location on another lot or premises unless such building or structure shall thereupon conform with the regulations of the zoning district in which such building or structure is to be located.

## **SECTION 506 BULK STORAGE OF CERTAIN MATERIALS**

In any zoning district any building, structure, or above ground tank used for the bulk storage, as defined in Section 303.28 of this Ordinance, of any poisonous or explosive material shall be located at least one hundred (100) feet from any property line.

## **SECTION 507 STRUCTURES TO HAVE ACCESS**

Every building hereafter erected or moved, with the exception of non-residential agricultural structures located in the AG, Agricultural zoning district, shall be on a lot or premises which abuts a public or approved private street or shall be accessible by means of a recorded access easement at least fifty (50) feet in width to provide safe and convenient access for servicing, fire protection and required off-street parking.

## **SECTION 508 PARKING AND STORAGE OF CERTAIN VEHICLES**

**508.01** Storage of vehicles or trailers of any type without current license plates or in inoperable condition shall be prohibited in the R-1, Residential and C-1, Central Business zoning districts, except in completely enclosed buildings. Storage of abandoned vehicles or trailers of any type or storage of inoperable vehicles or trailers of any type NOT in the process of repair shall be prohibited in C-2, General Commercial and I, Industrial zoning districts, except in completely enclosed buildings or permitted salvage yards.

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**508.02** Storage or parking of licensed recreational vehicles, travel trailers, pickup campers, boat trailers and the like, except when in completely enclosed buildings, shall not occur in any front yard in any residential zoning district for a period exceeding seven (7) days. Storage or parking of such vehicles in a side yard of residential zoning district shall be permitted, provided that a minimum distance of five (5) feet between any such vehicle and the side lot line shall be maintained. Not more than two (2) such vehicles shall be stored on any lot and at no time shall such vehicle be occupied or used for living or sleeping purposes, except for visitations which are less than seven (7) days in length.

**508.03** Storage or parking of licensed or unlicensed vehicles for sale on any residential and /or rental property where vehicles for sale are not owned by the owner or lessee or the residential and /or rental property shall be prohibited.

## **SECTION 509 STREET INTERSECTION VISIBILITY**

On any corner lot in any zoning district within the corporate limits of the City, except the C-1, Central Business District, no building, fence, wall, structure or other obstruction, including trees, shrubs and flowers, shall be placed or maintained between a height of three and one-half (3 ½) feet and eight (8) feet above the centerline elevations of each of the intersecting streets within the triangular area formed by the intersection street right-of-way lines and a line connecting points on said right-of-way line which is twenty five (25) feet from the intersection of said right-of-way.

## **SECTION 510 ONE PRIMARY STRUCTURE PER LOT**

No more than one (1) primary structure shall be located on a single lot, except where primary structures are designed and platted as a single entity, under single ownership and control, such as multi-family, clustered residential developments and townhouse developments. This limitation shall not apply to lots or tracts in any commercial or industrial zoning district, or shopping centers, commercial centers and lots located in recognized industrial parks.

## **SECTION 511 EASEMENTS**

No building or structure shall be placed or erected on or over any utility or access easements, excepts for structures associated with such utility easements.

## **SECTION 512 ACCESSORY BUILDINGS, STRUCTURES AND USES**

**512.01** Accessory buildings / structures and uses shall be incidental to, subordinate to, and commonly associated with the principal use of the premises and shall be operated and maintained under the same ownership and on the same lot as the principal use.

**512.02** Accessory buildings, structures and uses shall be subordinate to the principle structure on the lot in height, area, bulk, extent and purpose, shall not be located closer to any lot line than set forth in the minimum yard requirements for the zoning district in which it is located and shall be included in the calculation of maximum lot coverage regulations of the zoning district in which it is located.

## **SECTION 513 OPEN AIR BUSINESSES**

**513.01** Any business establishment where the principle use is the drive-in-type or is generally characterized by open air operations shall be permitted to locate such open-air aspects of the business in the front yard, provided that a landscape buffer, as defined in this Section 303.75 of this Ordinance, at least ten (10) feet in width shall be provided along the front property line.

**513.02** For convenience stores and other businesses dispensing, gasoline or other fuels at retail, pump islands shall be permitted no closer than twenty (20) feet to the front property line and any canopy covering such pump islands shall not extend closer than twelve (12) feet to the front property line.

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## **SECTION 514 HOME OCCUPATIONS / HOME-BASED BUSINESSES**

- 514.01** A home occupation or home-based business may be permitted to accompany any residential use only after the issuance of a certificate of zoning compliance occupancy permit by the Zoning Administrator and such certificate shall be issued only if home occupation or home-based business complies in all respects to the requirements of this Section.
- 514.02** A home occupation or home-based business shall be of a personal or professional service nature and such home occupations or home-based business shall not change the residential character of the premises or the structures thereon or interfere with the residential use of adjoining residential uses or residential uses across the street of the premises. No provision of additional off-street or loading facilities other than those which would normally be accessory to the residential use shall be permitted and on-street parking for customers of such home occupation or home base business shall be limited to those on-street parking spaces located on the same side of the street and along the frontage of the lot or premises where such home occupation or business is located. In instance where on-street parking is prohibited on one or both sides of the street, customer parking shall be limited to the off-street parking on the premises.
- 514.03** The principal use of the premises shall be for residential purposes and the owner and operator of the home occupation or home-based business shall be the occupant of the residential dwelling on the premises.
- 514.04** The owner / operator of the home occupation or home-based business shall not employ more than (1) employee other than members of the immediate family of the owner / operator who resides on the premises.
- 514.05** No exterior alteration which would change the residential appearance of the residential dwelling structure or any accessory building, including the use of lighted canopies, shall be permitted.
- 514.06** If the home occupation or home-based business is located in the residential dwelling structure, such use shall not occupy more than twenty-five (25) percent of the floor area of such structure. A home occupation or home -based business may be conducted in an accessory building, provided such building is clearly a building that is accessory to the residential use.
- 514.07** No additional or separate entrance which is inconsistent with the use of the residential dwelling structure shall be constructed solely for the purposed of conducting such home occupation or home-based business.
- 514.08** No display of goods or exterior evidence of the home occupation or home-based business shall be permitted, except for one (1) non-animated, non-illuminated, non-flashing sign which identifies the occupation business. Said sign shall not exceed a total of ten (10) square feet in area and shall be attached flat against a wall of the residential dwelling structure or accessory structure in which the occupation or business is conducted. No temporary or movable signs of any type shall be used in conjunction with any such occupation or business.
- 514.09** No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises of such home occupation or home-based business.
- 514.10** No stock in trade or products, other than those used, manufactured, assembled, produced or created on the premises shall be sold on the premises, provided that a stocking or products to be sold where the operator of the home occupation or business delivers such products to the purchaser and the number of customers visiting the location of the home occupation business to pick up such products is limited to a total of four (4) day.

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## **SECTION 515 OFF-STREET PARKING**

- 515.01** Accessory off-street parking facilities, including parking facilities for handicapped drivers as required under the Americans with Disability Act, shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this Ordinance in accordance with the provisions of this Section, which are designed to alleviate or prevent congestion of public streets by establishing minimum requirements for on-site and off-site parking areas for motor vehicles consistent with the parking needs of the use on each premises.
- 515.02** No use lawfully existing at the date of adoption of this Ordinance or amendment thereto shall be required to provide or maintain the parking spaces required in this Section, provided that off-street spaces required by any previous ordinance shall be provided and maintained and further provided that if the number of existing off-street parking spaces which are in excess of any prior ordinance, but less than the number required by this Ordinance shall be maintained.
- 515.03** For any non-conforming structure which is hereafter damaged or partially destroyed and which is lawfully reconstructed, reestablished or repaired, off-street parking spaces equivalent to those maintained on the premises at the time of such damage shall be restored and maintained, provided that in no case shall off-street parking be required in excess of those required by this Ordinance for the use on the premises.
- 515.04** If the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other means which will have the effect of increasing the need for parking spaces, the number of additional off-street parking spaces required by this Ordinance for such additions shall be provided.
- 515.05** Whenever, the existing use of a building, structure or premises shall hereafter be changed or converted to another use, off-street parking spaces required by this Ordinance for such new use shall be provided on the premises, except that this requirement shall not apply to a change of use in the C-1, Central Business District.
- 515.06** Nothing in this Ordinance shall prevent the voluntary establishment of accessory off-street parking facilities to serve any existing use, provided that all requirements with regard to location, design, landscape screening or buffering are complied with.
- 515.07** Off-street parking spaces shall be provided in one or more areas on the same lot or premises as the use serviced, except as otherwise provided in the Ordinance.
- 515.08** Off-street parking spaces required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than one (1) ton capacity of employees, occupants or customers and such parking spaces shall not be used for the storage or display of materials or products or the repair, dismantling or wrecking of any material.
- 515.09** Required off-street loading areas shall not be construed as being part of any required off-street parking area on any premises, except in accordance with off-site parking areas as regulated in Sections 516 and 518 of this Ordinance.
- 515.10** Each required off-street parking space shall be at least eight and one-half (8 ½) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns or work areas, provided that the minimum length of any parallel parking space shall be twenty-three (23) feet and further provided that parking space dimensions for handicapped drivers shall be as established in

the standards set for the Americans with Disabilities Act. Such parking spaces shall have adequate vertical clearance to allow each space to be used for parking.

**515.11** In conformance with the American with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employee or visitors or both, then parking spaces for those with disabilities shall be provided in each parking area in conformance with number of such spaces herein specified and the following requirements:

1. **NUMBER OF DISABLED ACCESSIBLE PARKING SPACES:**

<u>Total Parking Spaces</u>	<u>Required Minimum Number of Disabled Accessible Parking Spaces</u>
1 – 25.....	1
26 – 50.....	2
51 – 75.....	3
76 – 100.....	4
101 – 150.....	5
151 – 200.....	6
201 – 300.....	7
301 – 400.....	8
401 – 500.....	9
501 – 1000.....	Two (2) percent of the total
1,001 and over.....	Twenty (20) plus one (1) for each 100 over 1000

At facilities providing medical care and other services for persons with mobility impairments, parking accessible parking spaces in compliance with this Section shall be provided as follows:

Outpatient Facilities..... Ten percent (10%) of the total space

Facilities specializing in treatment or services for persons with mobility impairments..... Twenty percent (20%) of the total space

2. **LOCATION OF DISABLED ACCESSABLE PARKING SPACES:** Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from the parking area to accessible entrance. In parking facilities which do not serve a particular building, accessible parking shall be located on the shortest accessible route or travel to an accessible entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking areas, accessible parking entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking areas, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
3. **SIGNAGE:** Signage of accessible parking spaces shall be designated as reserved by a sign showing a symbol of accessibility. Spaces complying with Subsection 4 below shall have an additional “van accessible” sign mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
4. **ACCESS AISLES:** One (1) in every eight (8) disable accessible parking spaces, but not less than one (1) space, shall be served by an access at least eight (8) feet wide and shall be designated “van accessible”. The vertical clearance shall be at least the minimum specified in Subsection 7 below. All such spaces may be grouped on one (1) level of a parking structure. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access isle. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2%) in all directions.

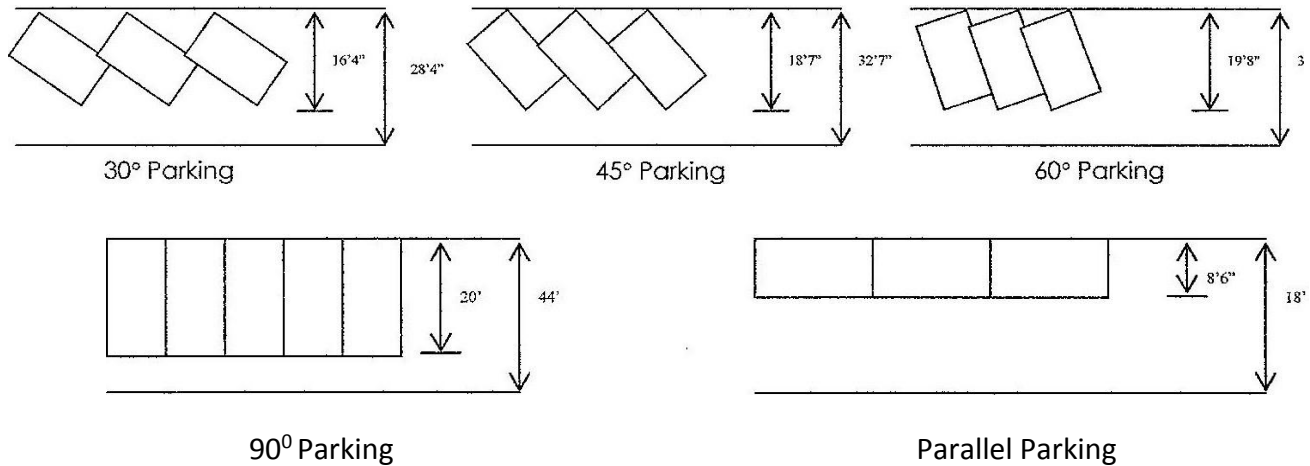
5. **VALLET PARKING:** If valet parking services and facilities are provided a passenger loading zone complying with Subsection 6 below, located on an accessible route to the entrance of the facility served, shall be provided.
6. **PASSENGER LOADING ZONES:** If passenger loading zones are provided in association with any use, at least one (1) loading zone shall provide an access aisle at least five (5) feet wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.
7. **MINIMUM VERTICAL CLEARANCE:** Minimum vertical clearance of one hundred fourteen (114) inches at accessible loading zones and along at least one (1) vehicle route to such areas from the site entrance(s) shall be provided. At parking spaces complying with Subsection 4 above a minimum vertical clearance of ninety-eight (98) inches at the parking space and along at least one (1) vehicle access to such space from the site entrance(s) and exit(s) shall be provided.

**515.12** All driveways or other areas used to satisfy the off-street parking requirement for all residential uses shall be paved with asphalt or concrete. All areas used to satisfy the off-street parking requirements for non-residential uses shall be surfaced with gravel, crushed rock or paved with asphalt or concrete.

**515.13** Except for single-family and two-family dwellings, each required off-street parking space shall open directly upon a drive aisle of sufficient width, as set forth and illustrated below, to provide safe and efficient means of vehicular access to and from such parking spaces and such drive shall be unobstructed and allow for passage of emergency vehicles.

Parking Angle* (in degrees)	Minimum Required Aisle Width (in feet)
less than 45	12
45	14
60	18
90	24

\* Angle shall be measured between center line of parking space and centerline of drive aisle.



**515.14** Off-street parking areas may be provided in the required front yard, except as otherwise restricted in this Ordinance, provided that any landscape buffer or landscape screen required by the applicable zoning district regulations shall be provided along the front property line.

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**515.15** The minimum off-street parking spaces required in association with the various uses permitted under this Ordinance shall be as follows:

<u>Use Description</u>	<u>Off-Street Parking Required</u>
Agriculture uses	No requirement, except for roadside stands for the sale of produce shall be provided with an adequate number of off-street parking spaces so that parking does not occur on a public roadway and for residential uses associated with an agricultural use which shall comply with the parking requirements for such residential uses as set forth herein.
Single-family residential uses	Two (2) spaces per dwelling unit including garage, carport or driveway parking
Two-family, townhouse or multi-family residential uses	One and one-half (1 ½) spaces per dwelling unit garage, carport or driveway parking
Rooming houses, dormitories, fraternities or sororities	One (1) parking space for each two (2) beds
Hotels and motels	One (1) parking space per lodging room plus one (1) Parking space per employee per largest working shift and any spaces required for any restaurant or lounge associated with any hotel or motel
Bed and Breakfast Business	One (1) parking space for each two (2) lodging rooms
Nursing homes, and hospitals	One (1) parking space for each four hundred (400) square feet of floor area or one (1) parking space for each two patient beds, whichever is lesser, plus one (1) parking space per employee per largest working shift
Assisted living and hospice housing	One (1) parking space for each independent dwelling unit and one-half (1/2) space for each dependent dwelling unit plus one (1) parking space per employee per largest working shift
Children's Homes	One (1) parking space for each six (6) children's beds, plus one (1) parking space for each employee per largest working shift.
Clubs, and lodges (without bars, lounges or Restaurants) community centers, public Restaurants), community centers, public administrative, utility offices, libraries,	One (1) parking space per each four hundred (400) square feet of floor area or one (1) parking space for each eight hundred (800) square feet of floor area plus one (1) parking space for each

administrative, utility and public service Offices, libraries, museums and similar uses	employee per largest working shift, whichever is greater.
Public or private schools	Eight (8) parking spaces per classroom, laboratory or other student instruction area
Sports arena, gymnasium or similar use	One (1) parking space for each three (3) seats unless said arena or gymnasium is operated in conjunction with a public or private school where either the parking requirement for the school or for the arena or gymnasium, whichever is greater, shall apply
Theaters, auditoriums, assembly halls, Funeral homes and similar places of congregation	One (1) parking space for each four (4) seats in the main seating area
Churches and similar places of worship	One (1) parking space for each three (3) seats in the main seating area
Boarding schools, vocational and trade schools Colleges and similar educational institutions	One (1) parking space for each six (6) students based upon the maximum number of students the facility is designed to accommodate at any one time during a twenty-four (24) hour period
General business uses, offices, retail and personal and professional service uses, except eating establishments, bars, lounges, discount retail stores, and strip developments with more than two (2) retail stores and retail shopping malls	One (1) parking space for each four hundred (400) square feet of floor area
Discount retail stores, strip developments with more than two (2) retail stores and retail shopping malls	One (1) parking space for each three hundred (300) square feet of floor area
Eating establishments, bars, lounges, night clubs and similar uses, excluding drive-in eating establishments where customers eat in their vehicle	One (1) parking space for each three (3) customer seats plus one (1) parking space for each employee per largest working shift
Open air business including auto, truck, Recreational vehicle, mobile home or recreational vehicle, mobile home or boat sales use, kennels, plant nurseries and similar uses	One (1) parking space per employee per largest working shift plus an adequate number of parking spaces for customers, but not less than five (5) additional parking spaces
Automobile or truck service stations or repair businesses	One (1) parking space for each employee per largest working shift plus two (2) parking spaces for each automobile or truck service stall
Amusement establishment, public swimming Pools, golf courses, bowling alleys, skating pools, golf courses, bowling alleys, skating	One (1) parking space for each five hundred (500) square feet of floor area or five (5) parking stalls for each hole, alley or one hundred



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rinks and similar recreational uses (100) square feet of water surface area, whichever is greater

Commercial and industrial uses not catering to on-premise retail customers One (1) parking space for each one and one-fourth (1 ¼) employees per largest working shift plus an adequate number of parking spaces to accommodate visitors and business vehicles operating from the premises

**515.16** If the unit of measurement for determining the minimum number of off-street parking spaces is any fraction of space, said fraction shall be considered as requiring one (1) additional parking space.

**515.17** In sports arena, gymnasiums, churches and other places of assembly or worship in which patrons occupy benches, pews or similar seating facilities, each twenty (20) inches of such seating shall be counted as one (1) seat for purposes of determining off-street parking requirements.

**515.18** For uses not specified in this Section or in any instance when the requirement of an adequate number of off-street parking space is unclear, the number of off-street parking spaces shall be determined by the Zoning Administrator on the basis of similar uses, the number of persons expected to be employed or served on the premises and the capability of the uses to adequately serve the visiting public.

**515.19** The required number of off-street parking spaces for premises involving more than one (1) type of use shall be the combination of the required parking spaces for such uses, except where the Zoning Administrator determines that the parking spaces available or similar uses, the number of persons expected to be employed or served on the premises and the capability of the use to adequately serve the visiting public.

**515.19** The required number of off-street parking spaces for premises involving more than one (1) type of use shall be the combination of the required parking spaces for such uses, except where the Zoning Administrator determines that the parking spaces available for one use on the premises can be reasonably expected function adequately for any use on the premises without conflict.

## **SECTION 516 OFF-SITE PARKING FACILITIES**

The City Council is hereby authorized to grant off-site parking facilities as conditional uses for any non-residential use in any zoning district, in accordance with Article 7 of this Ordinance and with the following conditions:

**516.01** A site development plan for such off-site parking facility shall be filed with the City and said site plan shall demonstrate compliance with all applicable requirements for off-street parking facilities, including landscape buffer and screening, as set forth in this Ordinance, and a listing of all individual off-site uses which shall be entitled to utilize such off-site parking facility, including the number of spaces committed to each such off-site use.

**516.02** Any such off-site parking facility shall be located in an area included in any non-residential zoning district and shall be situated within three hundred (300) feet of the lot(s) on which the use or uses to be served by said off-site parking facility, measured along the street or sidewalk connecting such parking facility to the use or uses served by the parking facility.

**516.03** Any such off-site parking facility shall be surfaced with gravel or crushed rock, asphalt or concrete capable of carrying a wheel load of four thousand (4000) pounds and shall be maintained in good condition and be free of all weeds, dirt, trash or debris.

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**516.04** The individual parking spaces in any such off-site parking area shall be delineated either by properly anchored wheel stops in the case of gravel or crushed rock surfacing or by painting of stripes and installation of curb or wheel stops in the case of asphalt or concrete surfacing.

**516.05** Any off-site parking facility shall have a landscape buffer on all street frontages at least six feet in width and any off-site parking facility located in a residential zoning district shall be required to have a landscape screen in all side or rear yards. Any such off-site parking facility not located in a residential zoning district, but which abuts a residential zoning district shall be required to have a landscape screen in any side or rear yard which abuts a residential zoning district.

## **SECTION 517 ON-STREET PARKING BLISTERS**

Notwithstanding other requirements of this Ordinance, the establishment of parking blisters on public street rights-of-way within the City may be authorized by the City Council, after review and recommendation by the Planning Commission, to substitute for all or part of the off-street parking requirements as set forth in this Ordinance for any type of use, subject to the following limitations and requirements.

**517.01** Parking blisters shall be permitted only on streets classified on the City's Major Street Plan as local streets.

**517.02** All parking blisters shall be located to maintain the minimum street intersection sight distance as required in Section 509 of this Ordinance and such sight distance requirement shall also apply to any intersection of a street and a public alley.

**517.03** The parking arrangement of any parking blister shall be parallel with the street curb or edge of pavement or angled from such curb or edge of pavement at an angle not exceeding forty-one (41) degrees. Where a street curb does not exist, such shall be installed as part of the paving of such parking blister.

**517.04** All parking blisters shall provide for pedestrian movement in the form of a sidewalk abutting the edge of the parking blister which is a minimum of six (6) feet in width and extending the length of the parking blister. Such sidewalk shall connect with any other sidewalks serving the premises or adjoining lots.

**517.05** Any parking blister shall not exceed the length of the frontage of the lot of which the use it serves is located and no part of any vehicle parked in such parking blister shall extend beyond the frontage of the lot which the parking blister serves.

**517.06** Any parking blister shall be paved with concrete or asphalt in accordance with City street paving standards and shall provide for proper drainage and be equipped with a curb on the front of the lot. Minimum parking space dimensions, as set forth in this Ordinance, shall be required in any parking blister.

**517.07** Maintenance and snow removal from a parking blister shall be the responsibility of the owner of the lot which such parking blister serves.

**517.08** Any part of the total off-street parking requirement not satisfied by a parking blister shall be provided on the lot on which the use served by the parking blister is located.

## **SECTION 518 DOWNTOWN PARKING**

**518.01** Due to the pedestrian oriented nature of the areas included in the C-1, Central Business Zoning District, and the availability of on-street parking in the central business district, the off-street parking

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requirements contained in Section 515 of this Ordinance shall not be applicable to any commercial use existing in the C-1, Central Business District.

## **SECTION 519    LOADING AREA REQUIREMENTS**

**519.01** Except for uses located in the C-1, Central Business District every lot used for commercial or industrial purposes shall be provided with an off-street loading area that will accommodate semi-tractors and trailers. Such loading area shall have access to a public street or alley and shall not interfere with the use of required off-street parking spaces or interfere with any sidewalk on the premises to maneuver or park any vehicles for loading or unloading. Such loading areas shall be surfaced with gravel or crushed rock or paved with asphalt or concrete.

**519.02** Commercial uses located in the C-1, Central Business District and existing at the date of adoption of this Ordinance shall not be required to meet the loading area requirements of this Section.

## **SECTION 520    SIGNS**

**520.01** Any sign shall, by definition, be a structure. No land, building, or structure shall be used for sign purposes except in conformance with these regulations and those of the applicable zoning district. Signs shall only be permitted in zoning districts permitting the same and no sign shall be erected, enlarged, or otherwise modified until a zoning permit for same has been issued, except as specified in this Section.

**520.02** All signs legally existing at the date of adoption of this Ordinance or applicable amendment there to may remain in use under the conditions of the legal non-conformance. Signs in legal non-conformance shall not be enlarged, moved, lighted, or reconstructed without compliance with Ordinance, provided, however, that normal maintenance of such signs and the changing of the advertising display in the case of billboards shall not be restricted. Conversion of any non-conforming business sign to another business sign or product name may be done, provided such non-conforming business sign to another business sign or product name may be done, provided such non-conforming sign is determined to be an obsolete sign, it shall not be converted to any other sign unless such conversion would bring such sign into conformance with these regulations.

### **520.03 DEFINITIONS:**

1. **BILLBOARD:** An off-site free-standing sign, unattached to any other structure, which directs attention to an object, product, place, activity, business, person or persons, service or interest not situated on the same premises as such billboard.
2. **BUSINESS SIGN:** An on-site sign which identifies or directs attention to an object, product, place, activity, business, person or persons, service or interest situated on the same premises as such sign.
3. **PRIMARY STREET FRONTAGE:** On corner lots, the primary street frontage shall be the front yard of any lot which coincides with the primary entrance to the primary building on said lot/or the front yard which serves as the primary vehicular entrance to the lot.
4. **SECONDARY STREET FRONTAGE:** On corner lots, the secondary street frontage shall be the front yard of any corner lot which is ninety (90) degrees or nearly ninety (90) degrees from the primary entrance to the primary building on said lot and/or the front yard which has no vehicular entrance or which serves as a secondary vehicular entrance.

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5. **SIGN:** Any outdoor visual identification, description, display, or illustration which is affixed to, painted on, or attached to a building, post, pole or other structure and which directs attention to an object, product, place, activity, business, person or persons, service or interest, provides direction or otherwise provides a means of visually communicating with the general public.
  6. **SIGN FACE:** The surface of the sign upon, against through which the message of the sign is exhibited.
  7. **SIGN, FREE STANDING:** A sign attached to a self-supporting structure which is unattached to any building or other structure.
  8. **SIGN, GROUND MOUNTED:** A free-standing sign in which the sign face is supported by a continuous and solid base which extends the full length of the sign face or is supported by posts not more than six (6) inches above the ground on which the sign face is mounted.
  9. **SIGN, INCIDENTAL:** A nameplate, temporary sign, or on-site sign providing direction for entrances, exits, parking areas and similar uses, including real estate “for sale” and “for rent or lease” signs and elected office or public issue campaign signs.
  10. **SIGN, OBSOLETE:** Any sign which advertises a business no longer in existence or a product no longer offered for a period of one (1) year after termination of such business or product availability.
  11. **SIGN, POLE MOUNTED:** A free-standing sign in which the sign face is mounted on one (1) or more poles and the base of the sign face is situated more than six (6) inches above the ground.
  12. **SIGN, PROJECTING:** Any sign suspended from or supported by a building and extending outward therefrom more than fifteen (15) inches.
  13. **SIGN STRUCTURE:** The support or supports, uprights, bracing and framework which supports the sign surface. In the case of a sign structure consisting of two (2) or more sign faces, where the angle formed between any of the faces, or projections thereof, exceeds fifteen (15) degrees, each side shall be considered a separate sign structure.
  14. **SIGN SURFACE:** The entire area within a single continuous perimeter enclosing all elements of a sign which are intended to be part of the visual image of the sign. For free-standing pole mounted signs, the sign surface shall include any pole or combination of poles in which the horizontal dimension exceeds one (1) foot. For free-standing ground mounted signs, the sign surface area shall include that portion of the base of the sign which is above ground.

#### **520.04 EXEMPTIONS:**

1. Signs not exceeding two (2) square feet in area and bearing only property numbers, address numbers, names of occupants or premises, or other identification of the premises not denoting any business activity.
2. Flags, signs and insignia of any governmental unit, civic, educational or religious organization, except where displayed in connection with a business promotion.
3. Legal notices, identification, informational, warning, no trespassing, directional or other similar signs erected or required to be erected by any government unit.

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4. Memorial plaques, historical markers, integral decorative or architectural features of a building, except trademarks, moving parts or moving lights.
  5. One (1) real estate sign for each lot frontage indicating “for sale”, “for rent or lease”.
  6. Political campaign yard signs, provided such signs are not placed in any public right-of-way.

**520.05 INCIDENTALS:** The following signs shall be exempt from these regulations, subject to the conditions specified below:

1. Signs, on private property, directing and guiding traffic, identifying a parking or loading area, or designating building entrances. Such signs shall not exceed ten (10) square feet in sign surface area for each sign, shall not exceed a height of three and one-half (3 ½) feet. A free-standing sign shall be set back a minimum of five (5) feet from any street or alley right-of-way line.
2. Temporary signs in connection with a special event, provided such signs are limited in use to thirty (30) days per premises and are set back a minimum of five (5) feet from any right-of-way line.
3. Temporary signs in connection with buildings under construction, model homes and similar longer-term temporary signs which shall be removed when the work or sale is completed. Such signs shall be set back a minimum of five (5) feet from any right-of-way line.
4. A temporary or permanent subdivision identification sign for each street entrance into a subdivision. Such sign shall not exceed two hundred fifty (250) square feet or forty-two (42) inches in height and shall be set back a minimum of ten (10) feet from any right-of-way line unless a greater set back is required to maintain street intersection visibility in accordance with Section 509 of this Ordinance.

**520.06 MAINTENANCE AND REMOVAL:**

1. All signs shall be kept in good repair.
2. Signs and sign structures which are obsolete or are no longer functional or are abandoned and which are determined by Zoning Administrator to be a public safety hazard shall be removed from the premises within sixty (60) days after written notifications from the Zoning Administrator.
3. Signs and sign structures which are obsolete or are no longer functional or are abandoned which are not determined to be a public safety hazard may remain in place and be reused, provide that any new sign face shall not exceed the size of the existing sign face by more than one hundred twenty five percent (25%) and the height of the sign is not increased, unless additional height is allowable under these regulations.

**520.07 GENERAL PROVISIONS:**

1. No sign or sign structure shall be placed on private property or public property without the consent of the owner of such property.

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2. No sign or sign structure, other than official street or highway signs, shall be placed upon, over or in any street or highway right-of-way, except in the Central Business District included in a C-1, Central Business Zoning District.
  3. No sign or sign structure shall be erected at any location where it will interfere with, obstruct the view of pedestrians or on-coming vehicular or railroad traffic, or be confused with any authorized traffic control sign, signal or device. No rotating beam, beacon or flashing illumination resembling any emergency vehicle lights shall be used in connection with any sign.
  4. It shall be unlawful to erect and maintain:
    - A. Any sign which is not included under the types of signs permitted in this Ordinance.
    - B. Any portable or movable sign, except as a temporary sign in accordance with the regulations set forth in this Section.
    - C. A billboard and an on-site business sign on the same lot.
    - D. Any trailer, vehicle, semi-truck trailer or other movable vehicle shall not be used as a structure for any sign, except as a temporary sign in accordance with the regulations in this Section.
  5. Business signs and billboards may be illuminated or animated, except as otherwise restricted in this Section. When such signs are directly lighted such light fixtures and reflectors shall not extend more than eight (8) feet from the sign face and shall not extend into any public right-of-way. Such light fixture extension shall be allowed to encroach on a required yard.
  6. No wall sign or sign structure, except a projecting sign, shall extend more than fifteen (15) inches from the building wall on which it is mounted.
  7. In the C-1, Central Business zoning district, not more than one (1) projecting sign shall be allowed for each lot or occupant thereof and the maximum sign surface area shall be fifty (50) square feet per side. In no case shall a projecting sign extend more than eight (8) feet beyond its supporting structure or be less than nine (9) feet above ground level. Projecting signs may be illuminated or animated, except as otherwise restricted in this Section.
  8. The minimum side or rear yard setback for any sign shall be five (5) feet for a ground mounted or pole mounted sign. Such minimum distance shall be measured from the property line to the nearest point of the sign.

**520.08 BUSINESS SIGNS:** The number and size of business signs for business uses permitted in any commercial or industrial zoning district shall be limited as follows.

1. No more than three (3) business signs shall be permitted on any lot in a commercial or industrial zoning district, except that when the principal business building is located on a corner lot and has vehicular entrance to both streets or when the principal business building has public entrances to both a front and rear of the building, one (1) additional sign shall be permitted.
2. A free-standing business sign shall be classified as either a pole mounted sign or ground mounted sign in accordance with the definitions in Section 520.03 of this Ordinance. The leading edge of either type of free-standing business sign shall be located no closer than ten (10) feet to a front lot line and five (5) feet from a side lot line, except where the street

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intersection site distance requirements of Section 509 of this Ordinance requires a larger setback from the intersecting streets.

3. For unified centers, including shopping centers and industrial parks, one (1) additional sign shall be permitted at the main entrance to such unified center, subject to the following requirements:
  - A. Such sign shall indicate only the name and location of such unified center and the name and type of business of the occupants of such center.
  - B. Such sign may be illuminated or lighted but shall not be flashing or animated.

### **520.09 BILLBOARDS:**

1. It is the intent of this Section to establish reasonable and uniform limitations, safeguards and controls for the location of billboards. Such regulations are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interest of the City.
2. Billboards shall be permitted on a lot with one (100) feet or more of frontage on a street classified in the City's Major Street Plan as an arterial street and only in areas included in the C-2, General Commercial or I, Industrial zoning district.
3. A billboard shall not be less than fifty (50) feet from any other building or on-site sign or two hundred (200) feet from another billboard on the same side of the street.
4. Billboards shall not be permitted on the same lot as any unified center shopping center.
5. The minimum front yard from any street or highway right-of-way shall be twenty (20) feet.
6. The minimum side or rear yard shall be five (5) feet, except as specified in Paragraph 7 below.
7. No billboard shall be permitted with one hundred (100) feet of a residential zoning district.
8. A billboard shall not contain more than (2) advertising sign per sign face.
9. A maximum of two (2) signs back to back shall be permitted per sign structure.
10. Double-decker sign faces are prohibited.
11. The maximum height of a billboard shall be (20) feet above the ground level at the base of the sign.

**SECTION 521     TEMPORARY USES**

**521.01** Temporary uses customary and commonly associated with the primary uses allowed with each zoning district shall be permitted and such uses shall be subject to the regulations of the applicable zoning district and the following time period restrictions:

<u>Temporary Use</u>	<u>Time</u>
<u>Limit</u>	
Temporary office, model home or apartment and incidental signs necessary for the sale, rental or lease of real property.....	1 year
Temporary building or yard for storage of construction materials and equipment necessary to the construction of a building or structure on or near the storage premises.....	1 year
Temporary structures for farmer’s markets, bazaars and similar.....	6 mos.
Mobile home or truck trailer parking as a temporary construction office during construction of a building or structure on or near the office premise.....	1 year
Announcement signs in association with buildings under construction, demolition or remodeling announcing the future use, developer, architect, engineer and contractor....	1 year
Subdivision or building development signs necessary to advertise the sale, rental or lease of real property within the subdivision or development.....	1 year
Commercial construction / paving material batch plants necessary to construction on or near the batch plant premises, provided such plants shall not be located in any residential zoning district.....	9 mos.
Sites for the sale of fireworks, Christmas trees and similar seasonal items and signs Associated with such uses.....	60 days
Special events, such as meetings, exhibition, sales, political campaign headquarters and similar special events.....	60 days
Temporary signs announcing a special event.....	60 days
Parking lot areas designated for a special event.....	30 days
Carnivals, rummage, garage or yard sales, auctions and similar uses .....	14 days / year
Other temporary uses customary to and commonly associated with the primary uses Permitted in each zoning district.....	60 days

**521.02** Temporary uses shall also comply with the following performance standards:

1. Except for the temporary use of a portable public address system in association with an auction, no public address system or noise producing device shall be permitted in any residential zoning district.
2. Floodlighting or other lighting used in association with a temporary use shall be restricted to lighting of the premises of the temporary use and shall not be directed or allowed to shine directly onto adjoining properties.



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3. Temporary uses shall not block street and alley intersection visibility and shall comply with Section 509 of this Ordinance.
  4. Temporary uses shall not be permitted to use or occur on any public property, except as approved by the City and except for on-street parking associated with a temporary use where such parking is permitted.
  5. Temporary uses shall comply with the requirements of the zoning district in which the use occurs and signs associated with a temporary use shall comply with the applicable regulations of Section 520 of this Ordinance.

## **SECTION 522 MANUFACTURED HOME – MOBILE HOME PARKS, COURTS AND SUBDIVISIONS**

**522.01** Manufactured Homes, as defined in Section 303.87 of this Ordinance and Mobile Homes, as defined in Section 303.88 of this Ordinance, as well as tiny homes and site-built homes may be placed in manufactured home-mobile home parks, courts or subdivisions, provided such mobile home parks, courts or subdivisions have been authorized as a conditional use and such parks, courts or subdivisions meet the following minimum requirements:

**522.02 MANUFACTURED HOME – MOBILE HOME PARK / COURT:** The following minimum requirements shall apply to any manufactured home – mobile home park or court developed after the effective date of this Ordinance and to any expansion of any mobile home park or court already existing as of the effective date of this Ordinance:

1. A manufactured home – mobile home park or court shall have an area of not less than one (1) acre.
2. Each lot provided for manufactured or mobile home placement shall have on area of not less than four thousand (4,000) square feet and a minimum width of thirty-six (36) feet.
3. The minimum front yard for each manufactured or mobile home shall be fifty (50) feet from any public street classified on the City’s Major Street Plan as an Arterial street and twenty-five (25) feet from any public street classified on such Plan as a collector Street, local street or frontage road. A front yard shall be measured from the right-of-way line of any public street or from a point which is twelve (12) feet from the centerline of any private street providing access to the mobile home lot. For developed areas, as defined in this Ordinance, the minimum front yard shall be the average of the front yards, provided that no front yard shall be less than twenty (20) feet. A front yard may contain the vehicle parking spaces required for each mobile home lot.
4. The minimum side yard for each manufactured or mobile home or addition thereto shall be five (5) feet.
5. The minimum rear yard shall be fifteen (15) feet.
6. Each manufactured home or mobile home lot shall be served by a hard-surfaced street at least twenty-four (24) feet in width. Any dead-end street shall be provided with a hard-surfaced turn-around a least fifty (50) feet in diameter.
7. Municipal water and sewage utilities shall be provided to each lot. The water supply shall be sufficient to provide water for domestic consumption and adequate flow for fire protection. Fire hydrants shall be installed so that no lot is more than one hundred fifty

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(150) feet from a fire hydrant measured along the streets on the perimeter of within the mobile home park or court.

8. Each lot shall be provided with a minimum of two (2) off-street parking spaces. Parking spaces and walkways connecting the parking space to the manufactured home or mobile home shall be hard surfaced.
9. Street lighting within and on the perimeter of any manufactured home – mobile home park or court shall be in a manner equivalent with that required for other residential subdivisions within the City.
10. Not less than eight (8) percent of the total land area in the manufactured home – mobile home park or court shall be designed as common open space for a park and playground. Any such area shall be designed so that its length is not more than twice its width and is not traversed by any street or motor vehicle traffic.
11. If common refuse storage facilities are to be provided, such facilities shall not be located more than one hundred fifty (150) feet from any mobile home lot and all refuse containers shall be screened from view by a solid fence at least six (6) feet in height with hinged openings to permit dumping of waste into the refuse containers and emptying of the containers.
12. The owner / management of the manufactured home – mobile home park or court shall prohibit storage of any materials, equipment, or trash receptacles, except licensed, operable vehicles, outside or underneath any manufactured home or mobile home unless such materials are stored in an enclosed building or inside a solid fence with a minimum height of six (6) feet.
13. All manufactured home and mobile home located in mobile home park shall be completely skirted, provided that skirting of recreational vehicles either pull type or motorized which are not designed for skirting shall not be required to be skirted.
14. All manufactured home and mobile home lots shall be provided pads and anchors for support of such homes and such pads and anchors shall be constructed in accordance either manufacturer's specifications or in the event of non-availability of such specifications, such pads and anchors shall be constructed to meet the minimum requirements of 24 CFR 3280.
15. Each manufactured home or mobile home lot shall be provided with a minimum eighty (80) square foot of enclosed storage space for storage of refuse containers, bicycles, mowers or other items. Such enclosed storage space may be provided through providing a small storage building on each lot, by providing a centralized storage building sufficient in size to meet the minimum square footage of storage area requirement or by providing oversized garages sufficient in size to provide the required eighty (80) square feet of storage area.
16. Not less than one reinforced storm shelter be provided for use by occupants of the manufactured home – mobile home park or court in the event of hazardous storms. Such shelter shall be of adequate size and capacity to safely house all occupants in the mobile home park or court and shall provide at least ten (10) square feet of floor space for each person utilizing an average of two and one-half (2 ½) persons per manufactured home or mobile home. Such storm shelter shall be located near the center of the manufactured home – mobile home park or court to provide the shortest possible distance between all lots within the park or court.

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**522.03 MANUFACTURED HOME – MOBILE HOME PARK / COURT PLAN REQUIREMENTS**

-As part of any conditional use application, the developer of any new or expanded manufactured home – mobile home park or court shall submit a complete, accurately scaled plan of the proposed park or court. Said plan shall include at least the following information.

1. The legal description and area of the land to be included in the park or court.
2. the number, size and location of each mobile home lot, including the location of required parking spaces and walkways.
3. A grading and drainage plan for the park or court.
4. The location and width of all streets and walkways.
5. The size and location of all water and sewer lines, fire hydrants and other infrastructure improvements together with easement locations and widths.
6. The location of all proposed street lights and utility easements to provide power to such lights.
7. The location and dimension of the required common recreational open space together with playground equipment to be provided.
8. The location, size and capacity of the required reinforced storm shelter.
9. The location of all refuse storage areas, other buildings and structures and other improvements to be provided in the park or court.
10. Plans and specifications of all building to be provided.

**522.04 MANUFACTURED HOME – MOBILE HOME SUBDIVISION** - The following minimum requirements shall apply to any manufactured home – mobile home subdivision developed after the effective date of this Ordinance and to any expansion of any manufactured home-mobile home subdivision already existing as of the effective date of this Ordinance:

1. A manufactured home – mobile home subdivision shall have an area of not less than two (2) acre.
2. Each lot provided for manufactured or mobile home placement, or site-built home shall have on area of not less than six thousand (5,000) square feet and a minimum width of fifty (50) feet, except that any lot to accommodate a double-wide mobile home shall have a minimum lot width of fifty (50) feet.
3. The minimum front yard for each manufactured or mobile home shall be fifty (50) feet from any public street classified on the City’s Major Street Plan as an Arterial street and twenty-five (25) feet from any public street classified on such Plan as a collector or local street or frontage road. For developed areas, as defined in this Ordinance, the minimum front yard shall be the average of the front yards, provided that no front yard shall be less than twenty (20) feet. A front yard may contain the vehicle parking spaces required for each mobile home lot.
4. The minimum side yard for each manufactured or mobile home or addition there to shall be five (5) feet.

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5. The minimum rear yard shall be fifteen (15) feet.
  6. Each manufactured home or mobile home lot shall be served by a dedicated public street developed in accordance with the standards set forth in the City's Subdivision Regulation Ordinance.
  7. Municipal water and sewage utilities shall be provided to each lot. The water supply shall be sufficient to provide water for domestic consumption and adequate flow for fire protection. Fire hydrants shall be installed so that no lot is more than one hundred fifty (150) feet from a fire hydrant measured along the streets on the perimeter of within the mobile home park or court.
  8. Each lot shall be provided with a minimum of two (2) off-street parking spaces. Parking spaces and walkways connecting the parking space to the manufactured home or mobile home shall be hard surfaced.
  9. Street lighting within and on the perimeter of any manufactured home – mobile home subdivision shall be in a manner equivalent with that required for other residential subdivisions within the City.
  10. The developer of the manufactured home – mobile home subdivision shall establish restrictive covenants which prohibit storage of any materials, equipment, or trash receptacles, except licensed, operable vehicles, outside or underneath any manufactured home or mobile home unless such materials are stored in an enclosed building or inside a solid fence with a minimum height of six (6) feet.
  11. The developer of the manufactured home – mobile home subdivision shall establish restrictive covenants which require that each manufactured home or mobile home located in the mobile home subdivision shall be completely skirted.
  12. Not less than one reinforced storm shelter be provided for use by occupants of the manufactured home – mobile home park or court in the event of hazardous storms. Such shelter shall be of adequate size and capacity to safely house all occupants in the mobile home park or court and shall provide at least ten (10) square feet of floor space for each person utilizing an average of two and one-half (2 ½) persons per manufactured home or mobile home. Such storm shelter shall be located near the center of the manufactured home – mobile home park or court to provide the shortest possible distance between all lots within the park or court.

#### **522.05 MANUFACTURED HOME – MOBILE HOME SUBDIVISION REQUIREMENTS**

Any part of any conditional use application, the developer of any new or expanded manufactured home-mobile home subdivision shall submit a complete, accurately scaled plat of the proposed subdivision in accordance with the requirements of the Subdivision Regulation Ordinance of the City.

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## SECTION 523 WIND ENERGY SYSTEMS

**523.01 INTENT:** According to the research conducted by the Michigan Department of Labor and Economic Development, Energy Office, generation of electricity in the United States is responsible for 36% of carbon dioxide pollution, 64% of sulfur dioxide pollution, 26% of nitrogen pollution and 345 on mercury pollution.

Development of facilities to generate clean, renewable energy will reduce air pollution, increase fuel diversity of our electric system, save natural resources and provide a hedge against increased price of fossil fuels used for electric generation.

The intent of these regulations is to strike an appropriate balance between our Nation's need and our State's need to develop clean, renewable energy resources and the necessity to protect the public health, safety and welfare within the zoning jurisdiction of Alma, Nebraska.

### 523.02 DEFINITIONS:

1. **AGGREGATE WIND ENERGY CONVERSION SYSTEM (WECS) PROJECT:** A utility grid wind energy conversion system project (WECS) or projects that is /are developed and operate in a coordinated fashion, but which have multiple separately owning one (1) or more of the individual WECS(s) within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also are part of the aggregate project.
2. **AMBIENT:** The sound pressure level exceeded ninety percent (90%) of the time.
3. **ANSI:** American National Standards Institute.
4. **Db(A):** The sound pressure level in decibels utilizing the "a" weighted scale defined by ANSI for weighting the frequency spectrum to mimic the human ear.
5. **DECIBEL:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
6. **FALL ZONE:** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of structural failure. This area is less than the total height of the tower.
7. **FEEDER LINE:** Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the wind energy conversion system.
8. **IMPACT EASEMENT:** An easement of deed restriction, recorded in the office of the Harlan County, Nebraska Registrar of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or intensive animal feeding uses, a waste handling facility use, a wind energy conversion system or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, noise, visual or other legal impacts associated with such use on the grantor's property when such use is operate in accordance with the terms of such easements or deed restriction.

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9. **METEOROLOGICAL TOWER:** A temporary tower, base plate, anchors, guy wires, hardware, anemometers, wind direction vanes, booms to hold equipment, data loggers, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed, direction and flow characteristics over a period of time at a given location. For the purpose of this regulation, such towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct and operate a WECS project which shall be in place on the premises not more than one (1) year from the date of completion of installation.
  10. **MODIFICATION:** Any change to the on-site WECS that materially alters the size, type, capacity or location of the WECS. Like-kind replacement and normal repairs shall not be construed to be a modification.
  11. **NET METERING:** The difference between the electricity supplied to a customer over the electric grid system and the electricity generated by the customer's WECS that is fed back into the grid system over a billing period.
  12. **NOISE SENSITIVE RECEPTOR:** Any land area, building or facility which could experience interference with its common and normal use due to excess noise levels including, but not limited to, occupied buildings, as herein defined, hotels, motels, outdoor amphitheater, outdoor sports fields, parks, playgrounds, golf courses, water-oriented recreation areas, riding stables and cemeteries.
  13. **OCCUPIED BUILDING:** A residential dwelling, school, hospital, church, public library or other building use for public gathering that is occupied by or used by humans for its intended purpose.
  14. **ON-SITE WIND ENERGY CONVERSION SYSTEM:** An on-site wind energy system with no tower or one (1) tower, intended to primarily serve the needs of the use on the premises where such system is located. Such system may be connected to the electric grid through net metering, but the ~~primary~~ only other use shall be to generate electricity to serve the needs of the use on the premises where such system is located.
  15. **OPERATOR:** The entity responsible for the day-to-day operation and maintenance of WECS, WECS project of substation, including any third-party subcontractors.
  16. **OWNER:** The entity or entities with an equity interest in the WECS(s), including their respective, successors and assigns. Owner does not mean 1) the property owner from whom land is leased for locating the WECS(s) unless the property owner has an equity interest in the WECS(s) or 2) any person holding a security interest in the WECS(s) solely to secure an extension of credit or person foreclosing on such security interest, provided that the foreclosure such person seeks to sell the WECS(s) at the earliest practicable date.
  17. **PUBLIC CONSERVATION LANDS:** Land owned in fee title by State of Federal Government agencies and managed specifically for conservation purposes, including but not limited to wildlife management areas, parks, wildlife refuges and waterfowl production areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations and private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
  18. **PURE TONE:** A pre tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) Db for center frequencies of five hundred (500) Hz and above, by eight (8) Db for center frequencies between one

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hundred sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) DbA for center frequencies less than or equal to one hundred and twenty five (125) Hz.

19. **ROTOR:** A component of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
20. **SCADA TOWER:** A free-standing tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
21. **SHADOW FLICKER:** Alternating changes in light intensity caused by the moving blades of a wind energy system which cast a repeating pattern of shadows on the ground and stationary objects, such as window of a dwelling.
22. **SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of sound measured at the receiver.
23. **SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
24. **SUBSTATION:** The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection to the utility grid transmission lines.
25. **SYSTEM HEIGHT:** The vertical distance from ground level to the tip of the wind generator blade when at its highest point from the ground.
26. **TOWER HEIGHT:** The height above grade of the fixed portion of the tower, excluding the wind generator.
27. **TRANSMISSION LINE:** The electrical power lines that carry voltages of at least sixty-nine thousand volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supply electrical energy to retail customers.
28. **UTILITY GRID WIND ENERGY SYSTEM:** A wind energy conversion system which is designated and constructed to provide electricity to an electric utility grid.
29. **WIND ENERGY CONVERSION SYSTEM (WECS):** A system with all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation and transformer, in any.
30. **WIND ENERGY CONVERSION SYSTEM PROJECT (WECS Project):** The WECS(s) and associated support facilities including, but not limited to, roads, transformers, electrical cabling, substations, operation and maintenance buildings, SCADA towers within the boundaries of the project site.
31. **WIND GENERATOR:** The blades and associated mechanical and electrical conversion components mounted on top of a tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.
32. **WIND SITE ASSESSMENT:** An assessment to determine wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

**523.03 ZONING PERMIT REQUIRED:** Issuance of a zoning permit shall be required prior to construction of any on-site or utility grid WECS. Failure to comply with the permitting requirement or any requirement of standard of this section shall constitute a violation of this Ordinance.

**523.04 ON-SITE WIND ENERGY CONVERSION SYSTEM REQUIREMENT:**

**APPLICATION REQUIREMENTS:** Application for an on-site WECS shall contain a scaled site plan containing the following information together with attachments which provide non-map data included.

1. Property lines and physical dimensions of the property where the on-site WECS is proposed, including the right-of-way of any public road that is contiguous to the property.
2. Location, dimensions and types of existing major structures on the property and height to the top of the canopy of any tree(s) or other obstruction within three hundred (300') of the proposed WECS location.
3. Location of proposed WECS, foundation, guy wire anchors and associated equipment.
4. Setback distances of the WECS as set forth in this regulation.
5. Location of overhead utility lines
6. WECS specifications, including manufacturer, model, rotor diameter, tower height, system height, tower type and nameplate generation capacity.
7. Electrical components in sufficient detail to allow for determination of compliance with applicable electrical codes.
8. Evidence of compliance or non-applicability with the Federal Aviation Administration requirements.
9. If shadow flicker impacts are anticipated beyond the property lines on which the on-site WECS is located, as analysis of shallow flicker impacts on abutting properties.

**STANDARD AND REQUIREMENTS:** On-site WECS shall be permitted in the applicable zoning districts when in compliance with the following standards and requirements:

1. **SETBACKS:** The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to the property lines, public road rights-of-way or nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district, except that guy wire anchors shall have a minimum setback from property line of ten (10) feet.

MINIMUM SETBACK REQUIREMENTS			
From occupied buildings on the same premises as the WECS	From occupied buildings on Abutting properties	From property lines and utility lines	From public road rights-of-way
0	1.1	1.1	1.1



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2. **SYSTEM HEIGHT:** The maximum system height shall be forty (40) feet above the highest tree canopy of other obstruction within three hundred feet (300') of the WECS, provided that no system height shall exceed one hundred twenty feet (120'), except for any limitations of Section 414 of this Ordinance, which is the AHO, Airport Hazard Overlay District.
  3. **SOUND LEVEL:** The on-site WECS shall not exceed fifty (50) decibels or five (5) decibels above the ambient sound level, whichever is less, using the A scale (dBA), as measured at the property lines, except during short-term events such as severe wind storms and utility outages.
  4. **SHADOW FLICKER:** The on-site WECS shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. The applicant shall provide a map of such shadow flicker impacts based upon high and low sun angles for proposed site. Where a complaint is made regarding compliance with this limitation, the complainant shall provide documentation of the alleged violation to the City
  5. **SIGNS:** There shall be no signs or logos of any typed allowed in the WECS tower or wind generator with the exception of warning signs and manufacture identification.
  6. **AVIATION:** Any on-site WECS proposed near an airport shall comply with applicable Federal Aviation Administration Regulations and the requirements of Section 414 of this Ordinance.
  7. **VISUAL IMPACTS:**
    - A. Screening of ground mounted electrical and control equipment from public roads and occupied buildings on abutting properties shall be provided by means of fencing and / or landscaping or a combination thereof.
    - B. The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
    - C. The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and / or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.
  8. **ACCESS:** The WECS tower shall be designed and installed so as not to provide step bolts, ladders or other means of access for a minimum height of eight feet (8') from ground level and the applicant shall provide evidenced as to how all ground mounted equipment shall be secured to prevent unauthorized access.
  9. **DESIGN SAFETY:** On-site WECS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted

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safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.

10. **CONTROLS AND BRAKES:** Each WECS shall be equipped with a redundant braking system, which may include aerodynamic over-speed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection. Certification of compliance with this requirement shall be provided by the manufacturer.

11. **CODE COMPLIANCE:** On-site WECS(s) shall comply with the electric codes applicable in the City and / or the National Electrical Code.

12. **ABANDONMENT:**

A. At such time that an on-site WECS is scheduled to be abandoned or discontinued, the owner of said WECS shall notify the Zoning Administrator of the proposed date of abandonment or discontinuance of operation.

B. Upon abandonment or discontinuation of use, the owner of the on-site WECS shall physically dismantle all above ground components of the WECS within ninety (90) days from the date of abandonment or discontinuation of use.

C. In the event that an owner of an on-site WECS fails to give notice of abandonment or discontinuation of use, the WECS shall be considered to be abandoned or discontinued if the system is out-of-service for a twelve (12) consecutive months. After such twelve (12) consecutive months the Zoning Administrator shall issue a written Notice of Abandonment by certified mail to the owner of the WECS at the address indicated for the site of the WECS in the County Treasurers Office. The owner of the WECS shall have the right to respond to the Notice of Abandonment within (30) days from the date of receipt of such notice to present evidence that the WECS has not been abandoned or discontinued. The Zoning Administrator shall review any such response to determine if the WECS has been abandoned or discontinued. If it is determined that said WECS has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of same shall be provided to the owner of said WECS. If, after review of the owner's response, it is determined that said WECS has been abandoned or discontinued, notice of such finding shall be provided by certified mail to the owner of the WECS.

If the owner of said WECS fails to respond to the Notice of Abandonment or of, after review of any response from the owner, the Zoning Administrator determines that the WECS has been abandoned or discontinued for twelve (12) consecutive months, the owner shall have ninety (90) days from the date of receipt of such notice to dismantle all above ground components of said WECS. If the owner of aid WECS fails to dismantle said WECS with the prescribed time period, such shall be considered a violation of the Ordinance and shall be subject to the penalties set forth in Section 1102 of this Ordinance.

13. **PRIOR EXISTING USE:** On-site WECS(s) installed prior to the effective date of these regulations shall be exempt from the requirements of the regulations, except when modification of the WECS is proposed. Any on-site WECS which was abandoned or the use of which has been discontinued for a period of twelve (12) consecutive months prior to the effective date of these regulations shall be subject to the notice and dismantling requirements set forth in Item 13 immediately above.

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## **523.05 UTILITY GRID WIND CONVERSION SYSTEM REQUIREMENTS:**

### **APPLICATION REQUIREMENTS:**

**PRELIMINARY PROJECT APPLICATION:** At the option of the applicant, a preliminary project application may be filed. Such application shall be intended to consider the proposed project from a local land use perspective without submission of the required studies, detailed site plan and formal details of the project. Such application shall place local citizens, neighboring property owners and the general public on notice that a property or series of properties is under consideration for a utility grid wind energy conversion system project and shall give the applicant some awareness of the potential issues associated with the proposed project without having to incur all of the costs with a Final Project Application.

The process for review and action on any Preliminary Project Application shall be the same as prescribed for a conditional use application as set forth in Article 7 of this Ordinance.

Action to approve any Preliminary Project does not indicate a final approval of the proposed project, but shall be interpreted to mean that such project may be approved in final form after the studies required in the Final Project Application have been completed and effective measures have been implemented to avoid or minimize impacts based on the wind energy facilities.

An applicant for a utility grid WECS project may, at their option, skip the preliminary project application process and proceed directly to a Final Project Application.

**PRELIMINARY PROJECT APPLICATION REQUIREMENTS:** The following mapped information and other data and exhibits shall be required in a Preliminary Project Application:

1. The name(s) of the proposed owners of the utility grid WECS project, the name(s) of the proposed operators of said WECS project, their respective business structures together with evidence of the financial capability of the proposed owner(s) and operator(s) to successfully implement, operate and maintain the proposed project.
2. A general site plan of the project area indicating:
  - A. The proposed boundaries of the property or properties to be included in the project.
  - B. The probable number, tower heights, diameter of rotor and location of such towers.
  - C. The public roadways included in the project boundaries.
  - D. The location of occupied buildings within and abutting the proposed project boundaries.
  - E. The proposed location of any meteorological tower(s) to be constructed to evaluate the proposed project area.
3. Color renderings or Computer-generated visual simulations, in color, showing the probable WECS towers, generators and rotors from at least four (4) viewable angles on the perimeter of the proposed project boundaries.

**PRELIMINARY PROJECT APPLICATION REVIEW:** In reviewing and acting on a preliminary utility grid wind energy conversion system project, the Planning Commission and City Council shall consider the following:

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1. The likelihood of the proposed project meeting or exceeding the minimum standards and requirements set forth under the Final Project Application section of this regulation. The applicant may submit a written statement or additional documentation indicating that the proposed project will comply with such final application standards and requirements.
  2. With regard to visual impacts of the proposed project and the typical human reaction of “not in my back yard”, the Planning Commission and the City Council shall consider the historic impacts, or lack thereof, of the development of previously popular television towers and antennae, satellite dishes, and the current impacts, or lack thereof, of cellular and other communication towers, pivot irrigation systems and electrical transmission towers and lines when considering whether the potential visual impacts of the proposed WECS project on neighboring properties would be any different or less acceptable than the cellular and other communications towers, pivot irrigation systems and electrical transmission towers and lines which already exist in the City.
  3. The particular issues of concern with regard to final action on the proposed utility grid WECS project.

**FINAL PROJECT APPLICATION:** Application for a final Utility Grid WECS Project approval shall include the following information:

1. The name(s), address(es) and telephone number(s) of the project applicant(s).
2. The name, address and telephone number of the project owner.
3. The legal description and address of the project.
4. A written narrative describing the proposed Utility Grid WECS Project, including an overview of the project, the generating capacity of the WECS Project, the number, type, height or range of heights of the wind turbines to be constructed including their generating capacity, dimensions and respective manufacturers and a description of ancillary buildings, structures and facilities.
5. Affidavit(s) or similar evidence of agreement between the property and the owner(s) and the WECS Project owner or operator demonstrating that the WECS Project owner or operator has the permission of the property owner(s) to apply for the necessary permits for construction and operation of the WECS Project.
6. A scaled site plan map or maps of the proposed Utility Grid WECS Project indicating:
  - A. The boundaries of the proposed WECS Project indicating all properties within and adjacent to such boundaries.
  - B. The location of each wind turbine together with setback distances from occupied buildings, utility lines, and public roads.
  - C. The location of public roads within and bordering the proposed WECS Project together with access roads and turnout locations proposed within the project.
  - D. The location of all proposed substations and the location of electrical cabling within the project area.
  - E. The location, size, height and type of all ancillary equipment, buildings and structures proposed within the project area.

7. A decommissioning plan complying with the requirements of this regulation.
8. A shadow flicker analysis in accordance with the requirements of this regulation.
9. Evidence of notification of the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communications systems within (5) miles of the proposed utility grid WECS project boundaries and an analysis of potential electromagnetic interference.
10. Environmental Analysis in accordance with the requirements of this regulation.

**STANDARD AND REQUIREMENTS:** Utility Grid WECS projects may be approved as a condition use / special exception the applicable zoning district when in compliance with the following standards and requirements.

1. **SETBACKS:** The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road right-of-way lines or the nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district.

MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS			
From occupied buildings on the same premises as the WECS	From occupied buildings on Abutting properties	From property lines and utility lines	From public road rights-of-way
0	4	3 or ¼ mile, whichever is less	3 or ¼ mile, whichever is less

In the event any owner of abutting property shall grant an impact easement to the owner of the WECS project, the setback from the boundaries of the abutting owner’s property and / or occupied buildings thereon shall bel as set forth in said impact easement.

2. **SYSTEM HEIGHT:** No limitations.
3. **SOUND LEVEL:**
  - A. The utility grid WECS sound levels, when in operation, shall not exceed thirty-five (35) decibels, or the ambient sound pressure level plus five (5) dBA, which is greater, measured at any occupied building or noise sensitive receptors within the project boundaries and on non-leased lands within the project boundaries and on lands within one (1) mile of the project boundaries. In the event audible noise from the operation of the WECS contains a pure steady tone, the maximum sound level shall be reduced by five (5) dBA.
  - B. Prior to initiation of construction on any utility grid WCES project, a survey and study of ambient sound levels shall be conducted by a qualified engineer for all occupied buildings or noise sensitive receptors with the project boundaries and on non-leased lands within the project boundaries and on lands within one (1) mile of the project boundaries. The duration of ambient sound levels measurements shall be a minimum of ten (10) continuous minutes at each location and the duration shall include at least six (6) minutes that are not affected by transient, non-natural sources. Such measurements shall be taken on a weekday and at four (4) to six (6) feet above the ground and at least fifteen (15) feet from any reflective surface. Ambient sound levels

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may be performed when wind velocities are sufficient to allow wind turbine operation, provided that the wind velocity shall not exceed thirty (30) mph at the measurement location. Ambient sound level shall be expressed in terms of the whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per hours.

4. **SHADOW FLICKER:** The utility grid WECS towers shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building or noise sensitive receptor within one-half mile of any wind turbine. The applicant shall provide an analysis which shall identify the location(s) of shadow flicker for each wind turbine from sun-rise to sun-set over the course of a year which would impact occupied buildings or noise sensitive receptors within one-half (1/2) mile of such wind turbines to verify that the standard set forth herein shall be complied with.
5. **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification. Visible high voltage warning signs shall be placed on all pad-mounted transformers and substations. Emergency contact signs shall be placed at or near the project main operation and maintenance building and the primary entrance to the project area. The sign at the primary entrance shall also warn of the potential for falling ice.
6. **AVIATION:** Any utility grid WECS project proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
7. **VISUAL IMPACTS:**
  - A. All WECS towers shall be of monopole design.
  - B. The color of the on-site WECS shall either be the stock color from the manufacturer or painted with non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
8. **ACCESS:** Wind turbine towers shall not be climbable up to fifteen (15) feet above the ground surface and all access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriated, to prevent entry by non-authorized persons.
9. **DESIGN SAFETY:** On-site WECS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
10. **CONTROLS AND BRAKES:** Each WECS shall be equipped with a redundant braking system, which may include aerodynamic over-speed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection. Certification of compliance with this requirement shall be provided by the manufacturer.

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11. **CODE COMPLIANCE:** On-site WECS(s) shall comply with the electric codes applicable in the City and / or the National Electrical Code.
  12. **ENVIROMENTAL IMPACT:** The project owner shall notify the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries upon application. No utility grid WECS project shall be located where its proximity to existing fixed boardcast, retransmission or reception antennae for radio, television, wireless telephone or other communication system would produce electromagnetic interference with signal transmission or reception unless the applicant shall provide a replacement signal to the affected party(s) that will restore the transmission or reception to at least the level present before operation of WECS project.
  13. **ENVIROMMENTAL IMPACT:** The applicant shall have a third party, qualified professional conduct and analysis to identify and asses any potential impacts on wildlife and endangered species and public conservation lands, with particular emphasis on areas where bird or bats are highly concentrated, significant bird migration flyways and areas that have landscape features known to attract large numbers of raptors.
  14. **DECOMMISSION PLAN:** The applicant shall submit a decommissioning plan, which shall include at a minimum:
    - A. The anticipated life of the project,
    - B. The estimated decommissioning costs of removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars,
    - C. The method of ensuring that funds will be available for decommissioning,
    - D. The anticipated manner in which the project will be decommissioned, and
    - E. The time period in which the decommissioning shall be completed.
  15. **PUBLIC ROAD IMPACTS:** The applicant shall, in coordination with representatives from the City and the County and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and /or equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The owner of WECS shall be responsible for restoring the roads, streets and bridges to pre-construction conditions where the impacts on such roads, streets and bridges is beyond normal wear under pre-existing conditions.
  16. **EMERGENCY SERVICES:** The applicant shall provide a copy of the project description and site plan to the local fire department and rescue service having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.
  17. **PUBLIC INQUIRES AND COMPLAINTS:** The owner and operator of the utility grid WECS project shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries or complaints throughout the life of the project. Said owner and operator shall make a reasonable effort

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to respond to the public's inquiries and complaints and shall maintain a record of such inquiries and complaints, together with actions taken and dates thereof and shall make such records available to the Zoning Administrator upon request.

**SECTION 524 CONSERVATION / PRESERVATION EASEMENTS:**

In accordance with Nebraska Revised Statute §76-2.111, a conservation / preservation easement shall mean a right, covenant or condition of any deed, will, agreement or other instrument executed by or on behalf of the owner or an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic or open condition, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat or open space, protecting air or other natural resources or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

**524.01 CITY APPROVAL REQUIRED:** In accordance with Nebraska Revised Statute §76-2.112, in order to minimize conflicts with land use planning, each conservation / preservation easement shall be approved by the City Council. The City Council shall first refer the proposed easement to the City Planning Commission which shall, within sixty (60) days of the referral, provide comments regarding the conformity of the proposed easement to the Alma, Nebraska Comprehensive Plan. If such comments are not received within said sixty (60) days, the proposed easement shall be deemed approved by the Planning Commission.

**524.02 APPLICATION FOR APPROVAL:** The owner or agent of the owner or real property on which a conservation / preservation easement is proposed shall submit a copy of the proposed easement to the Zoning Administrator for referral to the Planning Commission and City Council. Said application shall be without an application fee. The Zoning Administrator shall request a meeting of the Planning Commission and shall place consideration of the proposed easement as an agenda item.

**524.03 PLANNING COMMISSION CONSIDERATION:** In accordance with Nebraska Revised Statute §76-2.112, the Planning Commission shall review the proposed easement for consistency with the Alma, Nebraska Comprehensive Plan of current adoption, and specifically review the proposed easement for compliance with the definition of such easements as set forth in Section 524 above and for consistency with the Future Land Use Plan set out in such Comprehensive Plan. If such proposed easement complies with said definition and the Comprehensive Plan, a recommendation of approval shall be forwarded to the City Council, provided that a recommendation of denial of such proposed easement may be forwarded if:

1. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with the Comprehensive Plan, or
2. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with any national, state, regional or local program furthering conservation or preservation, or
3. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with any known proposal by a governmental body for use of the land on which the easement is proposed.

**524.04 CITY COUNCIL CONSIDERATION:** After receiving a recommendation with regard to any proposed conservation / preservation easement, the City Council shall review the



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recommendation of the Planning Commission and shall approve or deny such easement based upon the same factors set forth in Section 524.03 above. The City Council shall provide written notification to the applicant regarding the Council's decision on the proposed easement within ten (10) calendar days of the decision of the Council.

## **SECTION 525 SOLAR INSTALLATIONS**

In zoning districts where such uses are a permitted use, each solar installation shall comply with the following restrictions:

1. The minimum setback from all property lines shall be as set forth in the zoning district in which the use is located.
2. The maximum height of solar energy system panels shall be fifteen (15) feet, measured from the highest natural grade or roof below each panel to the highest point on the top of the panel.
3. Solar panels and arrays shall be located and constructed so as to avoid glare or reflection onto adjacent properties and public roadways,

## **SECTION 526 SOLAR FARMS**

In all applicable zoning districts, a conditional use may be granted to allow solar farms, subject to the following regulations:

1. The minimum setback from all property lines shall be twenty-five (25) feet, provided that any power inverters or other sound producing equipment shall have a minimum setback of one hundred fifty (150) feet from all property lines,
2. The maximum height of solar energy system panels shall be fifteen (15) feet, measured from the highest natural grade below each panel to the highest point on the top of the panel, provided that this height restriction shall not apply to poles and wires necessary to connect to a public utility power grid,
3. Solar panels and arrays shall be located and constructed so as to avoid glare or reflection onto adjacent properties and public roadways,
4. At the time of application for development of a solar farm, the developer and property owner shall submit a decommissioning plan which includes information on the anticipated life of the solar farm, the anticipated cost (in current dollars) and the methods to be used for decommissioning the solar farm and restoration of the project site to its original condition prior to the development of the solar farm together with provisions for providing financial sureties acceptable to the City Council to insure adequate funds are available for decommissioning in the event of bankruptcy or similar financial default. If such surety is not provided to the City in the event of any bankruptcy or other default, the property owner shall be responsible for and bear all costs for decommissioning not covered by such surety,
5. Any solar farm which is not generating electrical power to the power grid for a period exceeding one (1) year shall be deemed a discontinued use and shall be decommissioned in accordance with the decommissioning plan set forth in Paragraph D immediately above within six (6) months of the effective date of the declaration of a discontinued use by the City Council.

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## **ARTICLE 6: NON-CONFORMING USES**

### **SECTION 601 INTENT**

**601.01** Within the zoning districts established by this Ordinance or amendment thereto, there may exist lots, structures, or use of land structures, or characteristics of structures or use which were legally established on the date of the adoption of this Ordinance, but which are prohibited, regulated, or restricted under the terms of this Ordinance or amendment thereto. It is the intent of this Ordinance to permit these non-conformities to continue until such are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not, with limited exceptions, be enlarged upon, expanded or extended, nor be uses as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

**601.02** Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the applicable zoning district. A non-conforming use of structure, or land of a structure and land in combination shall not, with limited exceptions, be extended or enlarged after adoption of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises or by addition of other uses which are prohibited in the applicable zoning district.

**601.03** To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction or designated use of any building for which a zoning permit has been issued, provided construction on such building shall be initiated within ninety (90) calendar days from the date of issuance of such permit.

**601.04** Notwithstanding other provisions of this Section, a lawfully established residential use rendered non-conforming by adoption of this Ordinance or amendment thereto may be enlarged, altered or reconstructed, provided that:

1. Such residential use shall comply with Section 602 of this Ordinance.
2. This provision shall not be construed to include more than one (1) use on a lot and shall be applicable so long as such use remains otherwise lawful.
3. Any enlargement or alteration may be made in line with any existing exterior wall of the residential use even though said existing exterior wall may encroach on the minimum required front, side or rear yard.
4. Any enlargement shall comply with any limitations with regard to maximum lot coverage contained in this Ordinance.

### **SECTION 602 NON-CONFORMING LOTS OF RECORD**

**602.01** In any zoning district in which single-family dwelling structures are permitted, a single-family dwelling and its customary accessory buildings may be erected on a single lot which is a lot of record on the date of adoption of this Ordinance or amendment thereto. Such lot of record must be in separate ownership and not of continuous frontage with other lots in the same ownership. The provision shall apply even though such lot fails to meet the requirements for area, width, or both, of the applicable zoning district, provided that yard dimensions shall conform to the applicable zoning regulations.

**602.02** If two (2) or more lots or combinations of lots or portions of lots with continuous frontage and in the same ownership are of record on the date of adoption of this Ordinance or applicable amendment thereto, and if all or part of the lots do not comply with the lot width and area requirements of the

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applicable zoning district, the lots or portions of lots involved shall be considered to be an undivided parcel of this Ordinance and no portion of such lot or portions of lots shall be used or sold in a manner which would diminish compliance with the minimum lot width and area requirements of the applicable zoning district.

### **SECTION 603 NON-CONFORMING USES OF LAND WITH MINOR STRUCTURES**

**603.01** Where, at the date of adoption of this Ordinance or applicable amendment thereto, lawful use of land exists which would not be permitted under the regulations of the applicable zoning district and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

1. If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform in all respects to the requirements of the applicable zoning district.
2. No additional structure shall be erected in connection with any such non-conforming use.
3. No such non-conforming use shall be moved in, in whole or in part, to occupy any portion of the lot or parcel on which such use was located on the date of adoption of this Ordinance or applicable thereto.
4. No such non-conforming use shall be enlarged, increased in any way, or extended to occupy a greater area of land than was occupied by such use as of the date of adoption of this Ordinance or applicable amendment thereto.

### **SECTION 604 NON-CONFORMING STRUCTURES**

**604.01** With the exception of the provisions of Section 601.04 of this Ordinance, where a lawful structure exists on the date of adoption of this Ordinance or applicable amendment thereto which could not be constructed under the requirements of this Ordinance by reason of restrictions on area, lot coverage, height, yards, location of the lot, or other requirement concerning such structure, such structures may be continued as long as such structures remain otherwise lawful, provided:

1. No such non-conforming structure may be enlarged or altered in any way which would increase its non-conformity, but any structure or portion thereof may be altered to reduce its non-conformity.
2. Should such structure or non-conforming portion of such structure be destroyed by any means to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with this Ordinance or applicable amendment thereto.
3. Should structure be moved for any reason for any distance, it shall conform to the requirements of this Ordinance or applicable amendment thereto at its new location

### **SECTION 605 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION**

**605.01** If a lawful use involving individual structures with a replacement cost of more than one thousand dollars (\$1,000.00) or structure of such value and land in combination exists on the effective date of adoption of this Ordinance or applicable amendment thereto, that would not be permitted

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in the applicable zoning district, the use may be continued as long as it remains otherwise lawful, provided:

1. With the exception of the provision of Section 601.04 of this Ordinance, no such existing structure devoted to a use not permitted in the applicable zoning district shall be enlarged, extended, reconstructed, moved or structurally altered, except in conjunction with changing the use of the structure to a use permitted in the applicable zoning district.
2. With the exception of the provisions of Section 601.04 of this Ordinance, any non-conforming use may be extended throughout any parts of an existing building or area which was manifestly arranged or designed for such use at the date of adoption of this Ordinance or applicable amendment thereto, but no such use shall be extended to occupy any land outside such building area.
3. If no structural alterations are made, any non-conforming use of a structure or structure and premises may, as a conditional use, be changed to another non-conforming use provided that the City Council, either by general rule or findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the applicable zoning district than the existing non-conforming use. In permitting such change, the City Council may require compliance with conditions and safeguards which it deems appropriate.
4. Any structure, or structure and land in compliance, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform in the requirements of this Ordinance and a non-conforming use may not thereafter be resumed or established.
5. When a non-conforming use of structure, or structure and premises in combination, is discontinued or is abandoned by twelve (12) consecutive months, except when governmental action impedes access to the premises, the structure or structure and land in combination shall not thereafter be used except in conformity with the requirements of this Ordinance.
6. Where a non-conforming use status applies to a structure or structure and land in combination, removal or destruction of the structure by any means to an extent of more than seventy-five (75) percent of its replacement cost at the time of such destruction it shall be eliminated the non-conforming status of the land and such structure and use shall not be reconstructed except in conformity with the requirements of this Ordinance.

## **SECTION 606 REPAIR AND MAINTENANCE OF NON-CONFORMING STRUCTURES**

**606.01** Ordinary repairs and maintenance of or replacement of non-bearing walls, fixtures, heating and cooling systems, wiring, plumbing, roofing material or similar non-structural building components is permitted, provided that such repairs, maintenance or replacement does not increase the area or cubic content of the structure which existed on the date of adoption of the Ordinance or applicable amendment thereto.

**606.02** If a non-conforming structured or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to a lack of repairs or maintenance and is declared by any authorized official to be unsafe or unlawful by reason of such physical condition, such structure shall not be restored, repaired, or reconstructed after six (6) months from the date of such declaration.

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## **SECTION 607 CONDITIONAL USES AND NON-CONFORMING USES**

**607.01** A use granted as a conditional use under the terms and requirements of the Ordinance shall not be deemed a non-conforming use.

**607.02** A non-conforming use may be converted to another non-conforming use by authorization of a conditional use in accordance with Section 605.01, Subsection 3 of this Ordinance. A conditional use allowing a change from one non-conforming use to another non-conforming use shall remain a non-conforming use.

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## **ARTICLE 7: CONDITIONAL USE PERMITTED BY SPECIAL REVIEW**

### **SECTION 701 GENERAL POWERS**

The City Council may grant conditional uses to property owners for the use of their property as authorized by this Ordinance. The granting of a conditional use shall permit only the use requested that is among those uses listed in the applicable zoning district regulations as conditional uses. The Council may attach any conditions or additional requirements in authorizing a conditional use and such conditions or additional requirements shall be complied with in the same manner as any other requirement of this Ordinance. The conditional use authorization shall take effect upon authorization of the conditional use and issuance of a conditional use permit by the Zoning Administrator. The power to grant conditional uses shall be the exclusive authority of the City Council, provided that the City Council shall not consider any conditional use application until such application has been reviewed and recommendations provided to the City Council by the Planning Commission. The Planning Commission and City Council, when considering any application for a conditional use, shall comply with the following standards and procedures:

### **SECTION 702 APPLICATION REQUIREMENTS**

A written application for a conditional use permit shall be submitted to the Zoning Administrator on the form provided by the Zoning Administrator. A conditional use application shall be filed with the Zoning Administrator at least fifteen (15) days prior to the date of any review of such application by the Planning Commission together with the established fee for review of such conditional use application. Such application shall include, but not be limited to, the following information:

1. A legal description of the property on which the proposed conditional use is requested, including the specific size and dimension of the area on which the proposed conditional use would be located if less than the total property owned by the applicant;
2. The size and locations of all existing and proposed buildings and structures;
3. A detailed description of the use proposed and the activities involved in such use;
4. The location(s) of access to public roadway(s);
5. The type and locations of easements effecting the property;
6. A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;
7. The extent and location of parking, loading, outdoor storage areas and refuse disposal and collection facilities;
8. A description and location of any screen fencing or landscape screening proposed;
9. A description of the size, height and location of any proposed signs;
10. An indication of the land uses on all properties adjoining the property on which the conditional use is proposed;
11. An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;

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12. A description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, potential air, water or soil pollution or explosion hazards or other compatibility issue which may result from the proposed use;
  13. Any areas on the property subject to flooding or considered to be a wetland.

## **SECTION 703 PROCEDURE AND PUBLIC HEARINGS**

**703.01 PLANNING COMMISSION PUBLIC HEARING:** For any action on a conditional use application, the City Clerk shall have published a written notice in the legal newspaper of the City at least ten (10) days prior to the date of the Planning Commission meeting at which the conditional use request is scheduled to be heard. Such notice shall state the date, time and place of such public hearing and contain a statement describing the legal description, street address and type of conditional use requested, the name of the person(s) or entity making application for a conditional use and a statement indicating that all interested citizens can attend this public hearing and be heard with regard to this application.

**703.02 PLANNING COMMISSION REVIEW AND RECOMMENDATION:** The Planning Commission shall hear and review each conditional use application within thirty (30) days of the date that a complete application for a conditional use is submitted to the Zoning Administrator. The Planning Commission shall hear the applicant's petition and all comments by the public and shall review such application with regard to the factors, issues, requirements and limitations set forth in Section 704 of this Ordinance.

The Planning Commission, after review of the application, shall, by majority vote, act to recommend approval or disapproval of the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure that the proposed use will not unreasonably impact neighboring properties and the neighborhood and community in general. The Commission, in its review of a conditional use application, shall consider the issues and factors set forth in Section 704 of this Ordinance. If the Commission recommends disapproval of an application, it shall state the reason(s) for such disapproval. The recommendations of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall be recorded in the minutes of the Commission and such recommendations shall be forwarded by the Zoning Administrator to the City Council for its consideration. The Zoning Administrator shall provide the written statement of the action of the Planning Commission, including any recommended conditions of approval to the applicant.

If the Planning Commission determines that additional information is needed with regard to the conditional use application, it may continue the public hearing until the next meeting of the Planning Commission to provide time for the applicant to provide such additional information. The Chairperson of the Commission shall indicate to the applicant what additional information is needed and shall state the date, time and location of the next meeting of the Planning Commission at which the conditional use will again be considered.

**703.03 CITY COUNCIL PUBLIC HEARING:** For any action on a conditional use application, the City Clerk shall have published a written notice in the legal newspaper of the City at least ten (10) days prior to the date of the City Council meeting at which the conditional use request is scheduled to be heard. Such notice shall state the date, time and place of such public hearing and contain a statement describing the legal description, street address and type of conditional use requested, the name of the person(s) or entity making application for a conditional use and a statement indicating that all interested citizens can attend this public hearing and be heard with regard to this application.

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**703.04 CITY COUNCIL REVIEW AND ACTION:** The City Council shall hear, review and decide each conditional use application at its next regular meeting after hearing and recommendation on each conditional use application by the Planning Commission. The City Council, at public hearing, shall:

1. consider and review the application,
2. consider the comments of all interested citizens,
3. review and consider the recommendations of the Planning Commission, and
4. consider the issues and factors set forth in Section 704 of this Ordinance.

After such public hearing, review and consideration, the City Council shall, by majority vote, either:

1. approve the application as proposed,
2. deny the application,
3. approve such application with conditions, or
4. table the application to a specified date, time and place to provide for further study and review.

Any City Council action to authorize a conditional use shall be recorded in the minutes of the Council together with all conditions applicable to such authorization and the Zoning Administrator shall be instructed to attach such conditions to a conditional use permit to be forwarded to the applicant. Any City Council action to deny an application shall be recorded in the minutes of the City Council together with the reason(s) for such denial and the City Council shall cause a letter stating the reasons for the denial to be sent to the applicant.

## **SECTION 704 RULES GOVERNING CONSIDERATION AND AUTHORIZATION OF CONDITIONAL USES**

**704.01** The Planning Commission and City Council, in considering an application for a conditional use, shall prior to any action on a conditional use application, consider the definition of "conditional use" as defined in Section 303.39 of this Ordinance and which reads as follows:

Conditional Use: A use of land that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, size, height, intensity, location or relationship to the surrounding property would promote the public health, safety, morals, convenience and general welfare.

The Planning Commission and City Council shall also, prior to any action on a conditional use application, consider the following factors with regard to evaluation of the appropriateness of a proposed conditional use:

1. The location of all ingress and egress points to the property on which the conditional use is proposed to be located with particular reference to pedestrian and vehicle safety and convenience, traffic flow and control and access by emergency vehicles.
2. The impact of off-street parking and loading areas and related traffic, noise, glare and other impact on adjoining properties and the neighborhood in general.
3. The location and adequacy of refuse collection and utility locations and easements.



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4. The adequacy of surface drainage provisions proposed and the impact of surface drainage on neighboring properties and existing drainage facilities.
  5. The adequacy of landscape screening or buffering proposed or the need for such screening or buffering to protect abutting properties.
  6. The appropriateness of the location, size and height of signs and exterior lighting with regard to impact on abutting properties and the neighborhood in general.
  7. The compliance with yard and open space requirements of the applicable zoning district.
  8. The overall compatibility of the proposed conditional use with abutting properties and the neighborhood in general, the possible impacts on property values in the area of the proposed conditional use and the consistency of the proposed use with the City's Comprehensive Plan.
  9. The possible long-term impacts on and the long-term compatibility of the proposed conditional use with abutting properties and the neighborhood and community in general.
  10. Other factors, peculiar to the conditional use requested which could negatively impact abutting properties, the neighborhood or the community in general.

The Planning Commission may recommend and the City Council, in authorizing any conditional use, may stipulate and require compliance with such conditions and restrictions as it deems appropriate to assure that any conditional use authorized will not unreasonably impact the value of neighboring properties, traffic levels on adjoining streets, capacities of public utilities, surface drainage and the general public health and safety of the community.

In the event a proposed conditional use is to be temporary in nature, the Planning Commission may recommend and the City Council may stipulate a time limit for the operation of such use. If a proposed conditional use is to be a permanent use, evaluation of the appropriateness of the proposed use shall include an evaluation of the long-term impacts on and long-term compatibility with abutting properties, the neighborhood and the community in general. If such a permanent use is authorized, such authorization shall be without a time limit.

## **SECTION 705    EXPIRATION OF CONDITIONAL USES**

Construction or development of any authorized conditional use shall be commenced within twelve (12) months after issuance of a permit by the Zoning Administrator after authorization of such conditional use by the City Council. If such construction or development does not occur within this time, the conditional use authorization and permit become null and void. The applicant may, however, file a written request for an extension of the conditional use authorization and permit stating the length of the extension requested and the reason(s) such extension is needed. After proper legal notice in accordance with Section 703 of this Ordinance, the City Council shall review the extension request and decide if such conditional use remains appropriate. The City Council may grant an extension of up to twelve (12) additional months or it may deny the extension request and, in either case, the action of the City Council shall be recorded in the minutes of the Council together with the reason(s) for such action. The City Council shall cause a letter stating the Council's action and reason(s) for such action to be provided to the applicant.

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## ARTICLE 8: BOARD OF ADJUSTMENT

### SECTION 801 CREATION, TERMS OF OFFICE, MEETINGS, RULES

**801.01** A Board of Adjustment is hereby created and shall be known as the Alma, Nebraska Board of Adjustment. The Board members shall be appointed by the Mayor with concurrence of the City Council and shall consist of five (5) regular members plus one (1) alternate member who shall attend meetings, but shall not vote on any petition before the Board, except when a regular member of the Board is unable to attend a meeting.

**801.02** One (1) member of the Board of Adjustment shall be appointed from the membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the Board of Adjustment and the appointment of another member of the Planning Commission to the Board of Adjustment.

**801.03** The members of the Board of Adjustment shall serve for terms of three (3) years and be removable for cause by the Mayor and City Council upon written charges and after public hearing. Each member shall serve until a successor has been appointed. Vacancies shall be filled by appointment for the unexpired term of any member who has ceased to be a member of the Board.

**801.04** The members of the Board of Adjustment shall annually elect, from its membership, a Chairperson, Vice Chairperson. The members shall also appoint a Secretary, who may be a member of the board or an officer or employee of the City.

**801.05** The Board of Adjustment shall adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or the Vice Chairperson, may administer oaths and compel attendance of witnesses.

**801.06** The quorum for the Board of Adjustment shall be a minimum of three (3) members. Passage of any motion by the Board on any question, **EXCEPT THOSE MATTERS REQUIRING A PUBLIC HEARING**, shall require a concurring vote of a minimum of three (3) members. **Passage of any motion on a matter which requires a public hearing shall require a concurring vote of a minimum of four (4) members.**

**801.07** All meetings of the Board of Adjustment shall be open to the public. The Board shall cause accurate minutes of its proceedings to be prepared and such minutes shall include members in attendance, evidence presented, findings of fact by the Board, all motions and decisions of the Board together with any conditions attached to such decisions and the vote of each member. Records of all official actions of the Board shall be maintained in the Office of the City Clerk and shall be open to public inspection

### SECTION 802 POWERS AND DUTIES

The Board of Adjustment shall have the powers and duties herein described and shall have **ONLY** such powers and duties.

**802.01 POWERS AND JURISDICTION RELATING TO ADMINISTRATIVE REVIEW** The Board of Adjustment shall have the power and authority to hear and decide appeals from any affected persons where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator, based on or made in the enforcement of this Ordinance or any regulation relating to the location or soundness of structures, or to interpret any map.

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1. The Board of Adjustment shall hear and determine appeals from any requirement, interpretation or decision of the Zoning Administrator. Upon filing of an appeal, the Board shall fix a time and place for hearing of the appeal. Public notice of the time, place and subject of such hearing shall be published in the legal newspaper of the City at least ten (10) calendar days prior to the date fixed for such hearing. A copy of such notice shall be mailed to the person or persons who filed the appeal
  2. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau affected by any decision of the Zoning Administrator regarding the interpretation and enforcement of this Ordinance. Such appeal shall be filed within a reasonable period of time, as provided by the rules of the Board, by filing a notice of appeal with the Zoning Administrator and the Board specifying the grounds for such appeal and such notice shall be accompanied by payment of any fee established for filing of such appeal. The Zoning Administrator shall provide all papers constituting the applicable records of the Administrator to the Board on or before the date of the hearing set for hearing the appeal.
  3. An appeal stays all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Board, after a notice of appeal has been filed, that by reason of facts in such a case, that a stay would cause imminent peril to life and property. In such case proceedings shall not be stayed, except by a restraining order which maybe be granted by the Board or Court.

**802.02 POWERS AND JURISDICTION RELATING TO MAP INTERPRETATION** The Board of Adjustment shall have the power and responsibility to hear and decide questions regarding the interpretation of the Official Zoning Map in the same manner as the hearing of an appeal and in accordance with the limitations set forth in Section 406 of this Ordinance.

**802.03 POWERS AND JURISDICTION RELATING TO VARIANCE** The Board of Adjustment shall have the power to authorize, in specific cases, a variance from the specific terms of this Ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in an individual case, result in unnecessary hardship, and provided that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in such case upon findings of the Board that **ALL** of the following conditions have been met:

1. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of each specific piece of property, the strict application of any applicable provision of this Ordinance would, in an individual case, result in unnecessary hardship, and provided that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in such case upon findings of the Board that **ALL** of following conditions have been met.
  - A. the strict application of the applicable provisions of this Ordinance would produce undue difficulty or hardship,
  - B. such difficulty or hardship is not generally shared by other properties in the same zoning district and the same vicinity, the authorization of a variance shall not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the authorization of a variance,

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- C. the authorization of a variance is based upon reasons of demonstrable and exceptional difficulty or hardship, as distinguished from a variance for purposes of the property owner's convenience, profit, or caprice,
  - D. the condition or situation of the property concerned or the intended use of the property is not so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
2. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted to the Zoning Administrator. Such application shall be in the form prescribed by the Board and the applicant shall identify the special conditions and circumstances which are peculiar to the land, the structure(s) or building involved which, in the opinion of the applicant, are not applicable to other lands, structures, or buildings in the same zoning district. The applicant shall also 1) state the reason(s) that a literal enforcement of the applicable provision(s) of this Ordinance would deprive the applicant or rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance, 2) indicate why the conditions or circumstances related to such variance do not result from the action of the applicant, and 3) the reason(s) that granting of the requested variance will not confer any special privilege on the applicant that is denied by the provisions of this Ordinance to other land, structures, or buildings in the same zoning district.
  3. A non-conforming use of neighboring land, structure(s) or building(s) in the same district, and permitted on non-conforming uses of land, structure(s) or building(s) in other zoning districts shall not be considered grounds for difficulty or hardship and thus the authorization of a variance.
  - 4.. Upon filing of a variance application with the Zoning Administrator, notice of public hearing shall be published in the same manner as set forth in Subsection 801.02 above and the Board of Adjustment shall conduct a public hearing. Any party may appear in person or be represented by agent or attorney. Upon closing of such public hearing, the Board shall take further action of continued application:
    - A. Continue the application for a specified period of time to allow the Board to gather more information in regard to the variance application. In acting to continue such application the Board shall set a specific date, time and place where it shall take further action of continued application,
    - B. Deny the application for a variance and state the reason(s) for such denial,
    - C. Authorize a variance, provided that the Board shall make written findings that for particular reasons set forth in the application justify the authorization of a variance and that the variance is the minimum variance that will make possible the reasonable use of the land, structure(s) or building(s) and shall make written findings that the authorization of said variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to abutting property, the property in the vicinity of the subject property or be otherwise detrimental to the public welfare.
  5. In authorizing any variance, the Board of Adjustment may prescribe any conditions and safeguards it believes are appropriated to protect abutting property, property in the vicinity and the public in general. Violation of such conditions and safeguards by the applicant shall be deemed a violation of this Ordinance and punishable under Section 1102 of this Ordinance.

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6. Under no circumstances shall the Board of Zoning Adjustment authorize a variance to allow a use not permitted under the regulations of any zoning district or any use expressly or by implication prohibited by the regulations of any zoning district.

**802.04 BOARD OF ADJUSTMENT HAS POWERS OF ZONING ADMINISTRATOR UPON APPEAL** In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or interpretation as ought to be made and to this end shall have all powers of the Zoning Administrator, provided that a concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to reverse any order, requirement, decision or interpretation of the Zoning Administrator or to decide in favor of any applicant upon which it is required to act under this Ordinance or to authorize any variance to this Ordinance.

**802.05 APPEALS FROM DECISIONS OF THE BOARD OF ADJUSTMENT** Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, or any taxpayer, or any office, 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 as provided for in law. Such petition must be presented to the court within fifteen (15) days after the filing of the decision of the Board of Zoning Adjustment in the Office of the City Clerk.

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## **ARTICLE 9: ADMINISTRATIVE PROCEDURE AND ENFORCEMENT OF THIS ORDINANCE**

### **SECTION 901 ORGANIZATION**

The administration and enforcement of this Ordinance is hereby vested in the Planning Commission, the Board of Zoning Adjustment, the Zoning Administrator and such other officials designated by the City Council as may be necessary to enforce the Ordinance.

### **SECTION 902 AUTHORITY**

#### **902.01 PLANNING COMMISSION**

1. Hear and provide recommendations to the Mayor and City Council regarding amendments to this Ordinance or the Official Zoning Map.
2. Review and administer all matters upon which it is required to act.
3. Establish uniform bylaws and rules of procedure pertaining to review of applications, conduct of public hearings and issuance of permits.
4. Periodically review the effectiveness of the Comprehensive Plan and requirements of this Ordinance and initiate and recommend amendments thereto.
5. Invoke any authorized legal, equitable or special remedy for the proper and effective enforcement of this Ordinance.
6. Hear and recommend conditional use applications in accordance with the requirements and limitations of this Ordinance.
7. Conduct or review special studies and prepare recommendations as may be required by law or requested by the Mayor or City Council.

#### **902.02 BOARD OF ZONING ADJUSTMENT**

1. Hear, review and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator
2. Hear and authorize specific variances from the terms of this Ordinance which will not be contrary to the public interest, where owing to special conditions fully demonstrated, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship.
3. Hear and decide appeals regarding the Official Zoning Map in accordance with the limitations set forth in this Ordinance.
4. Establish uniform bylaws and rules of procedures pertaining to review of applications, conduct of public hearings and issuance of permits.
5. Invoke any authorized legal, equitable or special remedy for the proper and effective enforcement of this Ordinance.

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### **902.03 ZONING ADMINISTRATOR**

1. Issue in the name of the City, zoning permits, occupancy permits and other permits required or appropriate to the proper administration and enforcement of this Ordinance and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with the terms of this Ordinance and report or appropriate to the proper administration and enforcement of this Ordinance and maintain records thereof.
3. Provide interpretation of this Ordinance and Official Zoning Map when requested by an applicant, the Commission or the Board of Zoning Adjustment and provide and maintain public information relative to all matters rising out of this Ordinance.
4. Maintain permanent and current records related to this Ordinance including, but not limited to all maps, amendments, certificates and permits, variances, conditional uses, appeals and application therefore and records of meetings and public hearings.

### **902.04 RESPONSIBILITIES**

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator and that such questions shall be presented to Board of Zoning Adjustment only on appeal from the decision of the Zoning Administrator and that recourse from the decisions of the Board of Zoning Adjustment shall be to the courts as provided by law.
2. It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement. The procedure for deciding such questions shall be as stated herein. Under this Ordinance, the City Council shall have only the duties of appointment of a Zoning Administrator, the funding of such office and necessary legal services to enable proper administration and enforcement of this Ordinance, considering and adopting or denying proposed amendments to this Ordinance or the Official Zoning Map, conditional uses or the repeal of this Ordinance and of establishing of fees and charges as stated in this Ordinance.
3. If the Zoning Administer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify the person responsible for such violation in writing, indicating the nature of the violation and order the action(s) necessary to eliminate the violation. He/ She shall order removal of illegal buildings, structures and discontinuance of uses of land and order the elimination of any other type of violation to ensure compliance with the requirements of this Ordinance and shall take any other action authorized herein and by statute to insure compliance with or to prevent violation of this Ordinance.

**902.05 ZONING PERMITS REQUIRED** No building or other structure shall be erected, moved, added to, expanded or structurally altered without a zoning permit authorizing such activity, issued by the Zoning Administrator. No zoning permit shall be issued by the Zoning Administrator except in conformity with all applicable provisions of this Ordinance, unless the Zoning Administer shall receive a written order from the Board of Adjustment in the form of a variance, authorized under the terms and conditions of this Ordinance.

### **920.06 LIMITATIONS ON ISSUANCE OF A ZONING PERMIT**

1. Regardless of any other provisions of this Ordinance, in the event a zoning permit application has been duly filed with the Zoning Administrator and the use and /or location

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of such use proposed in said application would, due to setback or other requirements of this Ordinance, restrict or otherwise prohibit the issuance of a zoning permit for another use on any neighboring property, a zoning permit for any use on neighboring property which would be restricted or prohibited by the authorization of said original permit shall not be issued by the Zoning Administrator until the application for the original permit is duly processed and either denied or approved.

2. Pursuant to Section 39.1311 Neb. Rev. Stat., issuance of any zoning permit for development of structures and land uses in any proposed state highway corridor which has been officially designated by the Nebraska Department of Roads, shall be subject to review of said Department of Roads in accordance with said Section 39.1311 Neb. Rev. Stat. Upon receipt of any building/zoning permit application for development of structures or land uses in any such designated corridor, the Zoning Administrator shall forward notice of such application building/zoning permit to the Department of Roads. The department of Roads shall have sixty (60) days from the date of mailing of said notice to said Department to review any such application, unless the Department waives the time period in writing to the Zoning Administrator. Within the sixty (60) day period, the Department may, if it wishes, file with the Zoning Administrator a statement of intent to negotiate with the owner of the land on which any such building/zoning permit application. Upon filing of such statement of intent, the Department shall have a six (6) month period for negotiations with such owner. At the end of such six (6) month period, the owner has not withdrawn the application for a building/zoning permit, the Zoning Administrator shall issue said permit, if said permit complies in all other respects with the Ordinance.

#### **902.07 APPLICATION FOR ZONING PERMIT**

1. An application for a zoning permit shall be accompanied by plans, drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of buildings or structures already existing on said lot, if any, the location and dimensions of the proposed building(s) or addition or expansion thereof. All dimensions relating to lot dimensions shall be provided by the applicant and the applicant shall assume the liability with regard to any errors in said dimensions. The applicant shall be responsible for identifying the location of any lot pins as may be required by the Zoning Administrator.
2. The application shall include such other information as may be required by the Zoning Administrator, including the identification of building alterations, existing and proposed uses of the building(s) and land, the number of families, housekeeping units, or rental units the building is designed for, conditions existing on the lot, easement locations, and such other matters as may be necessary to determine conformance of the proposed building, structure or use with this Ordinance and its enforcement.
3. One (1) copy of any approved zoning permit, together with any conditions of such permit shall be provided to the applicant by the Zoning Administrator. If an application for a zoning permit is denied, the Zoning Administrator shall indicate to the applicant the reason(s) for such denial. The Zoning Administrator shall maintain a permanent record of all applications for zoning permits and maintain one (1) copy of each permit which is approved. The issuance of a zoning permit shall, in no case, be construed by the applicant or any other person or persons as waiving any requirement of this Ordinance.

#### **902.08 CERTIFICATE OF ZONING COMPLIANCE (OCCUPANCY PERMIT) FOR NEW, ALTERED, NON-ALTERED OR NON-CONFORMING USE**

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, created, erected, changed, converted, or wholly or partly



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altered or enlarged in its use until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator. Said certificate shall state that the use or uses of the building or premises conforms to the requirements of this Ordinance and authorize occupancy of such building or premises for the use or uses so stated.

2. No Certificate of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with the requirements of this Ordinance, unless the Administrator has received a written order from the Board of Adjustment in the form of a variance for any attribute of the building, structure or premises other than the use, authorized under the terms and conditions of this Ordinance.
3. If the Zoning Administrator determines that the construction or development for which a zoning permit has been issued is not proceeding according to applicable requirements of this Ordinance or is contrary in any way to the information and conditions included on such approved zoning permit, or is otherwise proceeding in violation of law, the zoning permit shall be revoked and the Zoning Administrator shall issue a "STOP WORK ORDER" to the applicant whose name and address is indicated on the affected building permit.
4. A Certificate of Zoning Compliance shall not be issued to any non-conforming use, except when a non-conforming use is converted to a permitted use another non-conforming use which is authorized in accordance to the requirements of the Ordinance.
5. When a Certificate of Zoning Compliance is requested by any applicant between November 1 and April 30 of any year and all required landscape screens or buffers required by this Ordinance have not or cannot be installed due to weather conditions, the Zoning Administrator shall issue a Certificate of Zoning Compliance, provided the applicant shall first submit a detailed landscaping plan conforming to the definition(s) of landscaped screen and/or landscape buffer set forth in this Ordinance to the Zoning Administrator and shall sign and certify on said plan that the landscaping indicated shall be installed by June 30 of the following year if the Certificate of Zoning Compliance is issued on or before November 1, and by June 30 of same year if said certificate is issued between January 1 and April 30. This deferred landscaping provision shall not apply to any Certificate of Zoning Compliance issued on dates other than specified in this paragraph.
6. The Zoning Administrator shall maintain a permanent record of all Certificates of Zoning Compliance issued. Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Ordinance and shall be punishable under Section 1002 of this Ordinance.

**902.09 EXPIRATION OF ZONING PERMIT** If the construction described in any issued zoning permit has not been initiated within six (6) months from the date of the issuance thereof, said zoning permit shall expire and be canceled by the Zoning Administrator with written notice thereof provided to the applicant for such permit. If the construction described in an issued zoning permit has not been completed beyond one-fourth (1/4) of its construction cost within two (2) years from the date of issuance thereof, said zoning permit shall expire and be canceled by the Zoning Administrator with written notice thereof indicating to the applicant for such permit that no further construction shall proceed unless new zoning permit has been issued.

**902.10** A zoning permit and Certificate of Zoning Compliance issued on the basis of plans and application and approved by the Zoning Administrator authorize on the use, arrangement and construction set forth in such permit or certificated and no other use, arrangement or construction. Any use, arrangement or construction at variance with the approved permit or certificate shall be deemed a violation of this Ordinance and punishable in accordance with Section 1102 of this Ordinance.

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**902.11** The fees and charges for a rezoning application, conditional use application, conditional use application, variance application, zoning permit, Certificate of Zoning Compliance, or such other permit as may be utilized under terms of the Ordinance shall be established by the City Council and shall be paid by the applicant at the time of application. A schedule of fees and charges shall be posted in the Office of the Zoning Administrator and may be amended only by action of the City Council. Until all applicable fees and charges are paid, no action shall be taken on any permit certification.

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## **ARTICLE 10: AMENDMENT**

### **SECTION 1002 SUBMISSION OF PROPOSED AMENDMENT TO PLANNING COMMISSION**

**1002.01** All proposed amendments shall first be submitted to the Planning Commission for review, comment and recommendation. Public notice of the time and place of a public hearing shall be given by publication thereof in the legal newspaper of the City at least ten (10) days prior to such hearing. Such notice shall contain a statement regarding the proposed amendment in regulations or boundaries of any zoning district. In addition to the publication of notice prescribed above, a notice shall be posted in a conspicuous place on or near the property of the proposed location of the conditional use. Such notice shall be not 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 ½) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of the public hearing regarding the property. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice. If the record owner(s) of any lots included in such proposed amendment be non-residents of the City, a written notice of such hearing shall be mailed by first class mail to such owner(s), addressed to their latest known address at least ten (10) days prior to the date of such public hearing.

**1002.01** At the option of the City Council, in place of the posted notice, the owners and occupants of the real estate to be affected by any proposed amendment and all owners and occupants of all real estate located within three hundred (300) feet of the real estate affected by the proposed amendment shall be mailed a written notice of the public hearing by first class mail at least ten (10) days prior to such hearing.

**1002.03** The provisions of a notice of public hearing published in the legal newspaper of the City, in accordance with the content and time requirements of such public notice as specified herein shall be applicable, but the posted notice or written notice mailed to property owners provisions, as specified herein, shall not apply when:

- A. the proposed amendment applies throughout the entire area of an existing zoning district or the entire area of the City and its jurisdictional area,
- B. the amendment proposes the establishment of additional or different types of zoning districts, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district or the City and its jurisdictional area.

### **SECTION 1003 PLANNING COMMISSION CONSIDERATION OF AMENDMENTS**

**1003.01** Following a public hearing on any amendment, the Planning Commission shall formulate a recommendation to the City Council to be summarized in the minutes of the Commission which shall constitute a report to the City Council. For action by the Commission on any amendment, a quorum of one (1) more than one-half (1/2) of the total membership of the Commission shall be present and voting. A vote either for or against the amendment shall constitute a recommendation of the Commission. The planning Commission shall cause its recommendations to be forwarded to the City Council.

**1003.02** Upon receipt of a recommendation from the Planning Commission regarding any amendment, the City Council shall give public notice of a public hearing in the same manner as prescribed in Section 1002 above. The City Council may approve or reject the recommendations of the Planning

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Commission with regard to any amendment. If the Commission should fail to submit a recommendation, the City Council may take such action as it deems appropriate regarding such amendment. If any amendment which is approved by the City Council affects the boundaries of any zoning district, the ordinance adopted by the City Council shall define the change in the boundaries of the zoning district, shall order that the Official Zoning Map be modified to reflect such amendment, and shall amend the Article and Section of the Ordinance, incorporating the same and reincorporating the Official Zoning Map.

### **SECTION 1004 PROTESTS**

Regardless of whether or not the Planning Commission recommends approval or disapproval of a proposed amendment or fails to provide a recommendation to the City Council, if a protest against any amendment is filed in the Office of the City Clerk within fourteen (14) days after of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners or twenty (20) percent or more of any real property, excluding rights-of-way for public streets and ways, located within or outside of the corporate limits of the City and located within three-hundred (300) feet of the boundaries of the property proposed to be rezoned, the Ordinance adopting such amendment shall not be passed except by at least three-fourths (3/4) of all members of the City Council.

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## **ARTICLE 11: COMPLAINTS, PENALTIES AND REMEDIES**

### **SECTION 1101 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the cause and basis thereof, shall be filled with the Zoning Administrator. The Administrator shall properly record such complaint, immediately investigate the complaint, and take action thereon, as required by this Ordinance.

### **SECTION 1102 PENALTIES**

The owner(s) or agent of a building, structure or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant or an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100.00) for any one offense recoverable with costs. Each and every day that such violation continues after notification of any violation shall constitute a separate offense. Any person other than those listed above in the Section who commits, participates in, or maintains such violation, may be found guilty of a separate offense and suffer the penalties herein prescribed. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

### **SECTION 1103 REMEDIES**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building or structure or land is used in violation of this Ordinance, the Zoning Administrator and such other authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of land, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

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## **ARTICLE 12: LEGAL STATUS PROVISIONS**

### **SECTION 1201 SEPARABILITY**

Should any Article, Section, Subsection or provisions of this Ordinance be declared by the Court 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 1202 PURPOSE OF CATCH HEADS**

The titles appearing in connection with the foregoing Articles and Sections are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms of this Ordinance

### **SECTION 1203 REPEAL OF CONFLICTING ORDINANCES**

All ordinance or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

### **SECTION 1204 EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.