

CITY OF WISNER
ORDINANCE NO. 2000-887
ZONING ORDINANCE

As amended by Ordinance No. 2009-1029

City of Wisner, Nebraska
February 21, 2000

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CITY OF WISNER
ZONING REGULATIONS

ARTICLE 1
TITLE, PURPOSE AND JURISDICTIONAL AREA

1-101 Short Title. This Ordinance shall be known as the "Zoning Ordinance" of the City of Wisner, Nebraska.

1-102 Purposes. The several purposes of this Ordinance are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open space for light and air; to lessen the congestion on streets; to give an orderly growth to the village or city; to prevent undue concentrations of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements; and in general to promote public health, safety, and general welfare.

1-103 Jurisdictional Area. This zoning ordinance shall apply to all land and buildings within the corporate limits of the City of Wisner, as presently exists or as hereafter established, and any unincorporated territory lying outside of but within one (1) mile of the nearest point of the city limits. No determination nor rule nor requirements of these regulations shall be extended or applied so as to prohibit, prevent, or interfere with the conduct of existing farming, livestock operations, business or industry.

1-104 Compliance with Ordinance Provisions. No structure or premises shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ordinance.

1-105 Classification of Districts. For the purpose of this ordinance the City is divided into zones designated as follows:

Abbreviated Districts Designations	
Agricultural District	(A)
Residential District	(R)
Commercial District	(C)
Industrial District	(I)
Flood Plain District	(FP)
Historical Sites District	(H)

1-106 Zoning Map.

(A) The location and boundaries of the districts designated in Section 1-105 are hereby established as shown on maps entitled "Zoning Map of Wisner" dated January 3, 2000, and signed by the Mayor and City Clerk hereinafter referred to as the "Zoning Map."

(B) The Zoning Map and all notations thereon are hereby made a part of this ordinance.

(C) The signed copy of the Zoning Map containing the zoning districts designated at the time of adoption of this ordinance shall be maintained without change on file in the office of the City Clerk.

**ARTICLE 2
DISTRICT REGULATIONS**

2-101 AGRICULTURAL DISTRICT (A)

This district is comprised of areas which are primarily in a natural state or areas utilized for growing of crops, raising of livestock, and other similar farming, ranching and resource conservation activities. A principle purpose of this district is the preservation and protection of croplands, rangelands, watersheds and wildlife habitats. This district is designed to be utilized in the extra-territorial jurisdictional area of the city.

(A) Permitted Uses

- (1) General farming and ranching, including raising of grains, fruits, vegetables, grasses, hay, and livestock.
- (2) Management of natural wildlife-habitats and reserves, both public and private.
- (3) Ranch and farm dwellings.
- (4) Recreational facilities (parks, play fields and playgrounds) operated by a public entity.
- (5) Accessory buildings and uses. Mobile homes and single family dwellings shall be permitted on a farm or ranch within the district provided they are used for relatives of consanguinity and marriage or farm workers of said farm or ranch.

(B) Conditional Uses

- (1) One unit dwellings.
- (2) Commercial auction yards and barns.
- (3) Commercial production and husbandry of poultry, fish and small animals.
- (4) Sale and distribution of agricultural products and produce by the farm owner or operator.
- (5) Commercial greenhouses.
- (6) Public schools, vocational schools, business schools, private schools, hospitals, rest homes, nursing homes, and convalescent homes.
- (7) Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility offices, repair, storage or production facilities).
- (8) Sewage disposal, water supply and treatment, and solid waste disposal facilities.
- (9) Public facilities, uses and buildings
- (10) Feed lots.
- (11) Cemeteries.
- (12) Extraction of natural resources.
- (13) Radio, television and microwave transmitting or relay stations and towers.
- (14) Feed mills, fertilizer plants and anhydrous ammonia storage tank facilities or plants.
- (15) Storage of trucks and implements.
- (16) Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept may be kept closer than three hundred (300) feet from any residential district.
- (17) Public campgrounds.
- (18) Private lakes, outdoor recreation facilities and campgrounds.
- (19) Golf courses.
- (20) Home occupations.
- (21) Veterinarian facilities, kennels and animal hospitals.
- (22) Confined hog feeding.
- (23) Fuel storage tanks.

ORDINANCE NO 2000-887

AN ORDINANCE OF THE CITY OF WISNER, NEBRASKA; ESTABLISH ZONING REGULATIONS; REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WISNER, NEBRASKA:

SECTION 1. ESTABLISH ZONING REGULATIONS. That the following articles of the Zoning Regulations be established for the City of Wisner and surrounding jurisdictional area, as per the attached bound volume:

- ARTICLE 1. TITLE, PURPOSE, AND JURISDICTIONAL AREA
- ARTICLE 2. DISTRICT REGULATIONS
- ARTICLE 3. CONDITIONAL USES
- ARTICLE 4. OFF STREET PARKING AND LOADING
- ARTICLE 5. SUPPLEMENTAL PROVISIONS
- ARTICLE 6. NON CONFORMING USES, STRUCTURES, LOTS AND SIGNS
- ARTICLE 7. PLANNED UNIT DEVELOPMENTS
- ARTICLE 8. BOARD OF ADJUSTMENT
- ARTICLE 9. DUTIES AND FEES
- ARTICLE 10. AMENDMENTS
- ARTICLE 11. ADMINISTRATION, ENFORCEMENT AND INTERPRETATION
- ARTICLE 12. DEFINITIONS

SECTION 2. REPEAL OF ORDINANCE. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force from and after its passage approval and publication in pamphlet form as required by law.

PASSED AND APPROVED this _____ Day of _____ 2000

Mayor

ATTEST:

Clerk/Treasurer

(SEAL)

(C) Lot Size

- (1) Minimum lot area: 5 acres, except as noted in the Supplemental Provisions, Section 5-106, regarding utility facilities.
- (2) Minimum lot width: 200 feet, except as noted in the Supplemental Provisions, Section 5-106, regarding utility facilities.

(D) Setback Requirements

- (1) Minimum front yard: 50 feet contiguous to all County roads and State highways. 35 feet contiguous to all other roads and streets.
- (2) Minimum side yard: 50 feet contiguous to all County roads and State highways, 35 feet contiguous to all other roads and streets.
- (3) Minimum rear yard: 25 feet contiguous to all County roads and State highways. 35 feet contiguous to all other roads and streets.

(E) Lot Coverage

The total coverage of all buildings shall not occupy more than 20 percent of the lot area.

(F) Height of Buildings

- (1) Maximum height for structure intended for human occupancy, 35 feet; all others no restrictions.

(G) Location Requirements for Specified New or Expanded Uses in this District

The following uses must be located one-quarter mile or further from the nearest occupied residential (excluding owner or operator), commercial, or industrial building or public school as measured from the nearest edge of the lot lines.

- (1) Feed lots.
- (2) Commercial auction yards and barns.
- (3) Commercial production and husbandry of poultry, fish and small animals.
- (4) Feed mills, packing plants, fertilizer plants and anhydrous ammonia storage tank facilities or plants.

2-201 RESIDENTIAL DISTRICT (R)

This district is composed of certain, quiet, low-density residential areas of the municipality and its jurisdictions plus certain open areas where similar residential development should occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of many families and to prohibit activities of a commercial nature. To these ends, development is limited to one-unit dwellings, except in a Residential Planned Unit Development, providing for living areas plus certain public facilities which serve the residents of the district.

(A) Permitted Uses

- (1) Agricultural uses limited to raising of crops. Animals may be permitted only in compliance with the Supplemental Regulations (Article 5, Section 5-114).
- (2) One-unit dwellings including one-unit modular dwellings if said dwellings comply with community codes.
- (3) Multi-unit dwellings.
- (4) Public schools.
- (5) Churches, chapels, temples, and synagogues.
- (6) Accessory buildings and uses.

(B) Conditional Uses

- (1) Recreational facilities (parks, play fields, playgrounds, tennis clubs, swimming clubs and golf courses) operated by a public entity or home-owner's association.
- (2) Nursery or day care schools.
- (3) Vocational, private and business schools.
- (4) Hospitals, rest homes, nursing homes and convalescent homes.
- (5) Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
- (6) Sewage disposal and water supply and treatment facilities.
- (7) Public buildings.
- (8) Home occupations.
- (9) Extraction of natural resources.
- (10) Mobile Home Parks (see Article 5-119).
- (11) Office for a doctor, dentist, or other practitioner of the healing arts; attorney; architect; engineer; surveyor; accountant; or Realtor, provided that such uses shall be located only in a one-story building on a lot adjacent to or directly across a street from a business or industrial district and meeting the fire district standards of a commercial or industrial zone.
- (12) Boarding houses, dormitories.
- (13) Mortuaries.

(C) Lot Size.

- (1) Minimum lot area:
 - (a) For all land not provided with central water and sewer facilities, the minimum lot area shall be one (1) acre, except as noted in the Supplemental Provisions, Section 5-106, regarding utility facilities. The minimum lot area per dwelling unit shall be one (1) acre.
 - (b) For all land provided with either central water or sewer facilities (must include one of the systems) the minimum lot area shall be 20,000 square feet. The minimum lot area per dwelling unit shall be 20,000 square feet
 - (c) For all land provided with central water and sewer facilities, the minimum lot area shall be 7,500 square feet for an interior lot and 9,000 square feet for a corner lot. The minimum lot area per dwelling unit shall be 7,500 square feet.
- (2) Minimum lot width:
 - (a) For all lots with an area of one (1) acre or larger, the minimum lot width shall be 150 feet or shall be a minimum of 100 feet when facing a cul-de-sac turnaround or curve or a minor loop street.
 - (b) For all lots with an area of 20,000 square feet or larger, but less than one (1) acre, the minimum lot width shall be 100 feet, or shall be a minimum of 70 feet when facing a cul-de-sac turnaround or curve on a minor loop street.
 - (c) For all lots with an area less than 20,000 square feet the minimum lot width shall be 60 feet for an interior lot, 75 feet for a corner lot, or shall be a minimum of 45 feet when facing a cul-de-sac turnaround or curve on a minor loop street.

(D) Setback Requirements

(1) Minimum yard setbacks contiguous to all County roads and State highways: 50 feet.

(2) Minimum yard setbacks contiguous to all other roads and streets:

(a) Minimum front yard:

(1) For all lots with an area of one acre or larger, the minimum front yard shall be 30 feet.

(2) For all lots with an area of less than one acre, the minimum front yard shall be 25 feet, or shall conform to front yard setbacks in existing residential developments.

(b) Minimum side yard: five (5) feet on one side and five (5) feet on the other side, **except that on other lots, the setback for all buildings shall be a minimum of 25 feet on the side abutting a street** or 30 feet if the lot is one

(1) acre or larger.

(c) Minimum rear yard: 25 feet.

(d) The entrance side of a garage or carport shall be set back at least 25 feet from the **access street**, except that in the case of an alley, the entrance shall be set back at least (10) feet from the rear lot line.

(E) Lot Coverage

(1) On all lots with an area of one (1) acre or larger, the total coverage of all buildings shall not occupy more than 20 percent of the lot area.

(2) On all lots with an area of less than one (1) acre, the total coverage of all buildings shall not occupy more than 40 percent of the lot area.

(F) Height of Buildings

(1) Maximum height for principle uses: 35 feet, except as a part of a Planned Unit Development maximum height shall be 50 feet.

(2) Maximum height for accessory uses: 20 feet.

(G) Location Requirements for Residential and School Areas as Pertaining to Existing Feed Lots

(1) No residential or school structure may be constructed within one-half (1/2) mile of an existing feed lot as measured from the nearest edge of the feed lot line to the edge of the proposed structure. This excludes residential structures of feed lot owners or operators.

2-301 COMMERCIAL DISTRICT (C)

This district is intended to provide a full range of retail sales and services including opportunities for a complete variety of comparative shoppers' goods, plus activities not basically conducted within an enclosed structure such as used car lots, etc. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the people of the retail trade area, and to prohibit activities of an industrial nature. The regulations are designed to permit development of commercial and business functions plus certain public facilities which are needed to serve the occupants of the district limited by standards designed to retain a favorable environment for the proper functioning of the district.

(A) Permitted Uses

- (1) Establishments for the retailing of convenience and shoppers' goods and for a wide variety of commercial uses and personal services including, but not limited to variety, supermarket, hardware, sporting goods, shoe, drug, clothing, department and major comparison stores; barber and beauty shops, dry cleaning outlets, self- service laundries, shoe repair shop and similar service activities.
- (2) Business school.
- (3) Building materials retail outlet only.
- (4) Gasoline service stations.
- (5) Mobile home, automobile, boat, truck or trailer storage, sales, repair and rental.
- (6) Agricultural implement sales and service.
- (7) Mortuaries and funeral chapels.
- (8) Medical and dental clinics.
- (9) Business and professional offices.
- (10) Financial institutions.
- (11) Membership clubs.
- (12) Churches, chapels, temples, and synagogues.
- (13) Greenhouses.
- (14) Hotels and motels or boarding houses, including restaurants and other incidental commercial uses inside the principle building.
- (15) Automobile parking lots
- (16) Eating and drinking establishments.
- (17) Indoor amusement and entertainment establishments.
- (18) Miniature golf courses, outdoor amusement and entertainment establishments not including a drive-in theater.
- (19) One-unit dwelling when incidental to the principal permitted use.
- (20) Parks, play fields and playgrounds.
- (21) Public utility uses, facilities, services, and buildings.
- (22) Accessory buildings and uses.
- (23) Auditorium, exhibit or hall, or other public assembly room.
- (24) Bus passenger station.
- (25) Custom dress making or tailor shops.
- (26) Locksmith, jewelry, or watch repair.
- (27) News or novelty stands.
- (28) Movie theaters, except outdoor type.
- (29) Bakery.
- (30) printing shops.
- (31) Bowling center.

(B) Conditional Uses

- (1) Vocational and private schools.
- (2) Drive-in theater, and drive-in establishments offering goods and services to customers waiting in parked motor vehicles.
- (3) Veterinarian facilities and animal hospitals.
- (4) Car washes.
- (5)
- (6) Wholesale activities.
- (7) Private campgrounds.
- (8) Studio: art, music, dance, health, photographic, radio or television broadcasting.
- (9) Second-hand store or pawn shop.
- (10) Dwellings, provided they shall be governed by the requirements of the (R) District.

(C) Lot Size

- (1) Minimum lot area: 4,000 square feet.
- (2) Minimum lot width: 50 feet.

(D) Setback Requirements

- (1) No minimum requirements except as provided below and for residential structures which shall be governed by (R) District requirements.
- (2) The minimum yard dimensions of the residential districts shall apply on the side of a lot abutting a residential district.
- (3) Side yard. There shall be no side yard requirements for nonresidential uses except as provided above.

(E) Lot Coverage

In a (C) District, buildings may occupy one hundred (100) percent of the lot area, except residential buildings

(F) Height of Buildings

- 1) Maximum height for principle uses: 60 feet; except that within one hundred (100) feet of the (R) District, no structure shall exceed thirty-five (35) feet in height.
- (2) Maximum height for accessory uses: 20 feet.

(G) Use Limitations

- (1) All business establishments shall be retail, service or wholesale establishments dealing directly with consumers, All goods produced on the premises shall be sold on the premises where produced.
- (2) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
- (3) All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential district by a sight-obscuring fence permanently maintained at least six (6) feet in height.
- (4) Openings to structures on sides adjacent to or across street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on residential properties.
- (5) Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape area.

2-401 INDUSTRIAL DISTRICT (I)

This district provides for non-offensive types of industry, warehousing, processing and manufacturing activities. The regulations of this district are intended to provide intensity standards and standards of external effect compatible with the surrounding or abutting districts.

(A) Permitted Uses

- (1) Facilities for the manufacturing, fabrication, processing, or assembly of products; provided that such facilities are completely enclosed and provided that no effects from noise, smoke, glare, vibration, fumes, or other environmental factors are measurable at the property line.
- (2) All other facilities for the manufacturing, fabrication, processing, or assembly of products; provided that such facilities are not detrimental to the public health, safety or general welfare and provided that the following performance standards are met:
 - (a) Smoke: no operation shall be conducted unless it conforms to the State standards established pertaining to smoke emission.
 - (b) Particulate matter: no operation shall be conducted unless it conforms to the State standards established pertaining to emission of particulate matter.
 - (c) Dust, odor, gas, fumes, glare or vibration: no emission of these matters shall result in a concentration at or beyond the property line which is detrimental to the public health, safety, or general welfare or which causes injury or damage to property.
 - (d) Radiation hazards and electrical disturbances: no operation shall be conducted unless it conforms to State standards established pertaining to radiation control.
 - (e) Noise: no operation shall be conducted in a manner so that any noise produced is objectionable due to intermittence, beat frequency or shrillness. Sound levels of noise radiating from property line at a distance of 25 feet or more therefrom shall not exceed 75 db (A).
 - (f) Water pollution: no water pollution shall be emitted by the manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the State.
- (3) General research facilities.
- (4) Indoor eating and drinking establishments on the same lot as, and incidental to, any use allowed by right or special review.
- (5) Automobile parking lots.
- (6) Sales, service and storage of mobile homes, campers, boats, bicycles, motor vehicles, motorized equipment, and accessories for such vehicles, but not including salvage junk yards.
- (7) Commercial uses (excluding retail stores) including, but not limited to, the following: lumber yards, nursery, stock production and sales, yard equipment and supply dealers, firewood operations, building contractors and equipment, transportation centers, service garages, wholesale operations, household equipment and appliance repair, rental establishments, car washes, bulk cleaning and laundry plants, cold storage lockers and printing services -- provided adequate safeguards are taken to protect adjoining properties from objectionable or harmful substances, conditions or operations.
- (8) Public utility uses, facilities, services and buildings.
- (9) Accessory buildings and uses.

(B) Conditional Uses

- (1) Retailing establishments.
- (2) Professional services.
- (3) Administrative and executive offices.
- (4) General business and professional offices.
- (5) Vocational schools.

- (6) Gasoline service stations.
- (7) Animal hospitals and kennels.
- (8) Outdoor amusement and entertainment establishments.
- (9) Extraction of natural resources.
- (10) Drive-in theater.
- (11) Junk yards.

(C) Lot Size

- (1) Minimum lot area: one (1) acre.
- (2) Minimum lot width: 150 feet.

(D) Setback Requirements

- (1) Minimum front yard: 30 feet.
- (2) Minimum side yard: 10 feet.
- (3) Minimum rear yard: 25 feet.

(E) Lot Coverage

The total coverage of all buildings shall not occupy more than 50 percent of the lot

(F) Height of Buildings

- (1) Maximum height for principle uses: 60 feet; except that within one hundred (100) feet of the (R) District, no structure shall exceed thirty-five (35) feet in height.
- (2) Maximum height for accessory uses: 25 feet.

(G) Use Limitations

- (1) All operations, activities and storage shall be conducted wholly inside of a building, or buildings, unless the nearest point of such operation or activity is more than 200 feet from the boundary of any other zoning district other than an (I) District and except that storage may be maintained outside the building and side yards or rear yards if such storage area is separated from public streets and other property (except property located in an (I) District) by screening of not less than six (6) feet in height.
- (2) Servicing and maintenance of vehicles shall be permitted only when such is necessary to the conduct of a permitted use.
- (3) If a lot in an (I) District adjoins a Residential District, screening shall be provided at the lot lines sufficient to protect, on a year around basis, the privacy of adjoining residential uses.
- (4) No building shall be used for residential purposes except that a watchman or owner of the use may reside on the premises.

2-501 FLOOD PLAIN DISTRICT (FP)

The Flood Plain District is designated for the purpose of protecting the citizen and his property from danger of flood, to aid the natural drainage of the land, and to maintain vegetative lands for recreation and ecological balance.

(A) Permitted uses

- (1) General farming and ranching including raising of grains, fruits, vegetables grasses, hay, and livestock.
- (2) Management of natural wildlife habitats and reserves, both public and private.
- (3) Recreational facilities (parks, play fields, and playgrounds) operated by a public entity.

(B) Conditional Uses

- (1) Utilities, electrical and other transmission lines.
- (2) Temporary structures and buildings pertaining to permitted and conditional uses.
- (3) Accessory buildings and structures used as private garages, sheds, fences, and similar structures.
- (4) Extraction of natural resources.

(C) Lot Size

- (1) Minimum lot area: none.
- (2) Minimum lot width: none.

(D) Setback Requirements

- (1) Minimum front yard: none.
- (2) Minimum side yard: none.
- (3) Minimum rear yard: none.

(E) Lot Coverage

The total coverage of all buildings shall not occupy more than 20 percent of the lot area.

(F) Height of Buildings

- (1) Temporary structures must conform to height requirements pertaining to principle structures in adjoining districts.
- (2) Accessory buildings and structures must conform to height requirements pertaining to accessory structures in adjoining districts.

(G) Special Provisions

When any part of the Flood Plain District has been designated as an established floodway by an applicable Natural Resource District, any structure permitted by the said District shall be permitted; provided such permitted structure shall not be used in violation of 2-501 (B) above, nor shall variation from any other section of this ordinance be permitted.

2-601 HISTORICAL SITES DISTRICT (H)

The Historical Sites District is designated for the purpose of protecting and preserving the historical structures and sites in the municipality and its jurisdiction.

(A) Permitted Uses

- (1) Historical structures, monuments, markers and places. Existing uses in this district may continue, however no remodeling, structural alteration or new structures are permitted without first receiving approval of the Planning Commission and governing body. Such permission may be granted involving remodeling, structural alteration or new structure when such improvement conforms to the historic significance of the site or structure. The Planning Commission in making such a recommendation shall consult with an authority on Wisner history, and the Nebraska State Historical Society.
- (2) Caretaker's quarters.

(B) Conditional Uses

- (1) Utilities, electrical and other transmission lines.
- (2) Temporary structures and buildings pertaining to permitted and conditional uses.
- (3) Accessory buildings and structures used as garages, sheds, fences, and similar structures in character with the historical site or structure.

(C) Lot Size

- (1) Minimum lot area: Same as (R) Residential District.
- (2) Minimum lot width: Same as (R) Residential District.

(D) Setback Requirements

- (1) Minimum front yard: Same as (R) Residential District.
- (2) Minimum side yard: Same as (R) Residential District.
- (3) Minimum rear yard: Same as (R) Residential District.

(E) Lot Coverage

Same as the (R) Residential District.

(F) Height of Buildings

Same as the (R) Residential District.

(G) Special Provisions

The lot size, setback, lot coverage and height of buildings requirements may be reduced if the requirements detract from the character of the historical structure or site.

2-701 SIGNS

All signs adjacent to Interstate and Primary Highways must comply with the Rules and Regulations of the Department of Roads, in accordance with the provisions of Article 9, Chapter 34, of the Nebraska Revised Statutes.

Signs shall not be erected or maintained in such a manner as to obscure, or otherwise physically interfere with an official traffic sign, signal or device, or in such a manner as to obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic. All signs shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish. After thirty (30) days notice and failure to do so, the municipality shall remove the sign and assess the charges to the owner.

Signs shall be of a kind and character not unsightly or unduly conspicuous in the area in which they are erected. In the event of a complaint on the character or kind of sign being maintained, the decision of the Board of Adjustment shall be final as to compliance of the sign with these provisions, which decision shall be made after an investigation and report by the Planning Commission, if deemed desirable by the Board.

(A) Signs in the (A) and (FP) Districts

- (1) Signs permitted in the (A) and (FP) Districts shall be erected and maintained at least fifteen (15) feet from the street line or road.
- (2) One name plate or sign indirectly illuminated or not illuminated less than three (3) square feet in area for each dwelling.
- (3) One temporary sign, not illuminated, less than six (6) square feet in area advertising the sale, lease, or rental of the property.
- (4) One temporary sign per tract of land or subdivision advertising the sale of the tract or the lots in the tract, and not exceeding 49 square feet in area. The sign shall be reduced in size by 6 square feet for each lot less than eight (8) in the subdivision.
- (5) Signs identifying a business establishment or business use provided that not more than 400 square feet of sign area shall be permitted for each 400 feet of street or highway frontage. In no case shall business signs be permitted within 50 feet of a residential district, a public park or a school. Additionally, the total aggregate area of the signs shall not exceed 2,400 square feet per mile, each mile measured beginning and ending with a section line.

(B) Signs in the (R) and (H) Districts

- (1) Signs permitted in the (R) and (H) Districts shall be erected and maintained at least fifteen (15) feet from the street or road line.
- (2) One name plate or sign indirectly illuminated or not illuminated less than three (3) square feet in area for each dwelling.
- (3) One temporary sign, not illuminated, less than six (6) square feet in area advertising the sale, lease, or rental of the property.
- (4) One temporary sign per tract of land or subdivision advertising the sale of the tract or the lots in the tract, and not exceeding 49 square feet in area. The sign shall be reduced in size by 6 square feet for each lot less than eight (8) in the subdivision.

(C) Signs in the (C) District

- (1) Signs permitted in the (R) and (H) Districts.
- (2) Signs identifying a retailing and service establishment area. One (1) sign not exceeding fifty (50) square feet in area. Signs shall be limited to those identifying the establishment, except that no business sign shall be located within fifty (50) feet of a lot in a residential district, a public park, or a school and if illuminated shall cast no direct light on adjacent residential property or on streets.

(D) Signs in the (I) District

In an (I) District, identification and advertising signs accessory to the allowed use are permitted, except that they shall be limited to 100 square feet and none shall be located within one hundred (100) feet of a lot in a Residential District, a public park, or a school unless it meets the requirements for a business sign in the (C) District.

**ARTICLE 3
CONDITIONAL USES**

3-101 Authorization to Grant or Deny Conditional Uses.

Uses designated in this ordinance as conditional uses permitted shall be permitted or enlarged or altered upon approval by the Wisner City Council all in accordance with the standards and procedures specified in Sections 3-101 through 3-107. The Council will receive a recommendation by the Planning Commission. In permitting a conditional use, the Council may specify other conditions found necessary to protect the best interest of the surrounding property or neighborhood or the municipality and its jurisdiction, as a whole. These conditions may include increasing the required lot size or yard dimensions, increasing street widths, controlling the location and number of vehicular access points to the property, increasing the number of off-street parking or loading spaces required, limiting the number of signs, limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property, requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area, and requirements under which any future enlargement or alteration of the use shall be reviewed by the Council and new conditions imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional existing prior to the effective date of this ordinance shall conform to all regulations pertaining to conditional uses.

3-102 Application for a Conditional use.

A request for a conditional use or modification of any existing conditional use may be initiated by a property owner or his authorized agent by filing an application with the City Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing locations of all utilities, rights of way and road ways. The Council may require other drawings or material essential to an understanding of the proposed use and its relationship to surrounding properties.

3-103 Public Hearing on a Conditional Use

A proposed conditional use shall be considered by the Council at a public hearing held within forty-five (45) days after filing of the application. The City Clerk shall give notice of the hearing in the following manner:

- (A) By publication of a notice in a newspaper of general circulation in the municipality not less than ten (10) days prior to the date of the hearing.
- (B) By sending notices by mail not less than ten (10) days prior to the date of hearing to the property owners within the area enclosed by lines parallel to and two hundred (200) feet from the exterior boundaries of the property involved, using for this purpose the name and address of owners as shown upon the records of the County Assessor. Failure to receive such notice shall not invalidate any proceedings in connection with the application for a conditional use.

3-104 Recesses of the Hearing by Council.

The Council may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notices upon other property owners or persons whom it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the Council shall announce the time and date when the hearing will be resumed.

3-105 Action on a Conditional Use.

The Council may approve, or approve conditionally or disapprove a request for a conditional use. A file containing a written record of the action taken by the Council with regard to conditional uses shall be maintained by the Council.

3-106 Notification of Action

The City Clerk shall notify the applicant for a conditional use in writing of the Council's action within seven (7) days after the decision has been rendered.

3-107 Standards Governing Conditional Uses.

A conditional use shall ordinarily comply with the standards of the district concerned for uses permitted outright except as specifically modified in granting the conditional permit or otherwise as follows:

- (A) **Setbacks.** In any Residential District, no yards provided shall be less than two-thirds (2/3) the height of the principal structure. In other districts, yards may be increased over those required for uses permitted outright when necessary to meet the general objective on conditional use control.
- (B) **Height exception.** The height limitations of any district may be exceeded by a conditional use to a maximum permitted height of sixty (60) feet, provided that total floor area of the conditional use shall not exceed one and one-half (1-1/2) times the area of the site and provided that yards have a minimum width equal to at least two-thirds (2/3) of the height of the principal structure.
- (C) **Limitations on access to lots and on openings to buildings.** The Council may limit or prohibit vehicular access from a conditional use to residential streets not designated as arterial streets on an officially adopted street plan, and it may limit or prohibit openings in sides of a building or structure permitted as a conditional use within fifty (50) feet of a Residential District if such openings will cause glare, excessive noise, or other adverse effects on adjacent residential properties.
- (D) **Signs permitted within the district or one indirectly illuminated or non illuminated sign on each side not** of a conditional use abutting a street shall be permitted, whichever is less restrictive. A sign shall exceed twenty (20) square feet in area, shall pertain to the conditional use, and may be located in required yards.
- (E) **Automobile service stations.** In addition to the other standards of this section, automobile service stations, when permitted as conditional uses, shall meet the following requirements:
 - (1) The minimum permitted lot size shall be ten thousand (10,000) square feet.
 - (2) Sales of merchandise shall be confined to items used for the maintenance and servicing of passenger cars.
 - (3) No automobile repairs other than incidental minor repairs, battery or tire changing shall be allowed on the property.
 - (4) A sight obscuring fence of not less than five (5) feet nor more than --six (6)-- feet shall be provided between the station site and abutting residential property.
- (F) **Nursery or Day Care Schools.** A sight obscuring fence at least four (4) feet but not more than six (6) feet in height shall be provided separating the play area from abutting lots.

(G) Dwellings, not including seasonal dwellings. In no case shall the standards for a dwelling as a conditional use be less than the standards of an (R) District.

(H) Additional Regulations. For the purpose of providing a guide to its decision making, the governing body may by resolution promulgate additional specific written regulations for the following conditional uses, and which shall, insofar as possible, specify the criteria and standards under which these conditional uses are to be considered for approval:

- (1) Extractive industries.
- (2) Campgrounds.
- (3) Feed lots.
- (4) Veterinary facilities, kennels and animal hospitals.
- (5) Salvage yards.

The governing body may also, from time to time, promulgate additional written specific regulations not inconsistent with the provisions of this Article relating to procedures, and to criteria and relevant development features of any other conditional uses.

**ARTICLE 4
OFF-STREET PARKING AND LOADING**

4-101 Off-Street Parking.

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the municipality and its jurisdiction, off-street parking spaces shall be as provided in this section unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by Sections 4-101 (A) through 4-101 (G). Where square feet are specified, the area measured shall be the floor area primary to the functioning of the particular use of property and shall exclude stairwells; elevator shafts; hallways; ornamental balconies; space occupied by heating, air conditioning or other utility equipment; and space devoted to off-street parking or loading. The number of employees of a new or expanding business shall be estimated in a manner approved by the Board of Adjustment and the number of employees of an established business shall be determined from an examination of the payroll.

	Use	Standard
(A) Residential Uses.		
(1)	One family dwellings and multi-family dwellings:	Two (2) spaces per dwelling unit which may include the garage and driveway leading to the garage.
(2)	Residential hotel; rooming or boarding house: f	Four (4) spaces per five (5) guest accommodations plus one (1) additional space or owner.
(3)	Housing restricted to aged, disabled, etc.:	One-half space per unit.
(4)	Dormitories and other lodging facilities and rooms for unmarried students:	One (1) space per occupants for the first 20 occupants and a total number of spaces equal to 75 percent of the total number of occupants or 20 spaces, whichever is greater.
(B) Commercial residential uses.		
(1)	Hotel:	One (1) space per two (2) guest rooms plus one space per two (2) employees.
(2)	Motel:	One (1) space per guest room or suite plus one (1) additional space for owner or manager.
(3)	Club; Lodge:	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
(C) Institutions.		
(1)	Convalescent hospital, nursing home, sanitarium, rest home for aged:	One (1) space per two beds for patients or residents.
(2)	Hospital:	Three (3) spaces per two (2) beds

	Use	Standard
(D) Places of public assembly.		
(1)	Church:	One (1) space per four (4) seats or eight (8) feet of bench length in the main auditorium.
(2)	Library; reading room:	One (1) space per four hundred (400) feet of floor area plus one space per two (2) employees.
(3)	Pre-school nursery; kindergarten:	Two (2) spaces per teacher.
(4)	Elementary or Intermediate school:	One (1) space per classroom plus one (1) space per administrative employee plus one (1) space for each six (6) students or one (1) space for four (4) seats or eight (8) feet of bench length in the main auditorium, whichever is greater.
(5)	High School:	One (1) space per classroom plus one (1) space per administrative employee plus one (1) space for each six (6) students or one (1) space for four (4) seats or eight (8) feet of bench length in the main auditorium, whichever is greater.
(6)	College; vocational school; commercial school for adults:	One (1) space per (5) seats in classrooms.
(7)	Other auditoriums; meeting rooms:	One (1) space per four (4) seats or eight (8) feet of bench length.
(E) Commercial amusements.		
(1)	Stadium; arena; theater:	One (1) space per four (4) seats or eight (8) feet of bench length.
(2)	Bowling alley:	Five (5) spaces per alley plus one (1) space per two (2) employees.
(3)	Dance hall; skating rink:	One (1) space per one hundred (100) feet of floor area plus one (1) space per two (2) employees.
(F) Commercial.		
(1)	Retail store except as provided in Section 4-101 (F) (2):	One (1) space per one hundred twenty-five (125) square feet of floor space.
(2)	Service or repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture:	One (1) space per four hundred (400) square feet of floor area.
(3)	Offices (except medical and dental):	One (1) space per three hundred (300) square feet of floor area plus one (1) space per two (2)

employees.

- (4) Medical and dental clinic: One space per two hundred (200) square feet of floor area plus one (1) space per two (2) employees.
- (5) Eating or drinking establishment: One (1) space per one hundred (100) square feet of floor area.
- (6) Mortuaries: One (1) space per four (4) seats or eight (8) feet of bench length in chapels.

(G) Industrial.

- (1) Storage warehouse; manufacturing establishment; air, rail or trucking freight terminal: One (1) space per employee.
- (2) Wholesale establishment: One (1) space per employee plus one (1) space per seven hundred (700) square feet of patron serving area.

4-102 Off-Street Loading.

(A) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having capacity greater than twenty-five (25) students.

(B) Merchandise, materials, or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off street parking areas used to fulfill the requirements of these regulations shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

4-103 General Provisions - Off Street Parking and Loading.

(A) The provisions and maintenance of off street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Use of property in violation hereof shall be a violation of this ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off street parking or loading requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until such time as the increased off street parking or loading requirements are complied with.

(B) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Board of Adjustment, after a report and recommendation from the Planning Commission, based upon the requirements of comparable uses listed.

- (C) In the event several uses occupy a single structure or parcel of land, the total requirements for street parking shall be the sum of the requirements of the several uses computed separately.
- (D) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the building inspector in the form of deeds, leases, or contracts to establish the joint use.
- (E) Off street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than three hundred (300) feet from the building or use they are required to serve, measured in a straight line from the building.
- (F) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- (G) Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side or rear yard.
- (H) A plan, drawn to scale, indicating how the off street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

- (1) Delineation of individual parking and loading spaces.
- (2) Circulation area necessary to serve spaces.
- (3) Access to streets and property to be served.
- (4) Curb cuts.
- (5) Dimensions, continuity, and substance of screening.
- (6) Grading, drainage, surfacing and subgrading details.
- (7) Delineation of obstacles to parking and circulation in finished parking area.
- (8) Specifications as to signs and bumper guards.
- (9) Other pertinent details.

(I) Design requirements for parking lots.

- (1) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.
- (2) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight obscuring fence of not less than five (5) feet nor more than six (6) feet in height except where vision clearance is required.
- (3) Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four (4) inches high and set back a minimum of four (4) feet from the property line or by a bumper rail.

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- (4) Artificial lighting which may be provided shall be so deflected as not to shine create glare in any residential district or on any adjacent dwelling.
 - (5) Access aisles shall be of sufficient width for all vehicle turning and maneuver-
 - (6) Except for dwellings, parking spaces shall be so located and served by a that their use will require no backing movements or other maneuver- street right-of-way other than an alley.
 - (7) Service drives to off street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than thirty (30) feet in width and shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives. Service drives on the same lot frontage shall be separated by a minimum length of curb of thirty (30) feet, provided that for every foot by which the lot frontage exceeds one hundred (100) feet, the minimum required length of curb shall be increased by one (1) foot, up to a maximum requirement of two hundred (200) feet. In the case of a corner lot, service drives shall be located not closer than thirty (30) feet to the intersecting street line. Service drives shall be located not closer than ten (10) feet to a side lot line, except that a common service drive to two adjacent properties with width not exceeding thirty (30) feet may be provided at the common lot line.
 - (8) Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points thirty (30) feet from their intersection.

(J) Completion time for parking lots. Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the Administrator of this ordinance. An extension of time may be granted by the Administrator providing a performance bond, or its equivalent, is posted equaling the cost to complete the improvements as estimated by the Administrator provided the parking space is not required for immediate use. In the event the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements thenceforth constructed under the direction of the governing body.

**ARTICLE 5
SUPPLEMENTAL PROVISIONS**

5-101 District Boundaries.

Unless otherwise specified, district boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a district divides a land parcel under a single ownership into two districts, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedures for a district change shall be followed.

5-102 General Provisions Regarding Accessory Uses.

(A) Accessory uses shall comply with all requirements for the principles use except where specifically modified by this ordinance, and shall also comply with the following limitations.

- (1) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales from the premises.
- (2) A guest house may be maintained in a residential district accessory to a dwelling such guest house is used for the occasional housing of guests of the occupants of the principle dwelling, and not as a rental unit for permanent occupancy.

(B) Bulk Regulations.

- (1) When no alley exists, accessory structures shall be set back 5 feet from the rear lot line, and when an alley exists, a 10 foot setback shall be required.
- (2) Accessory structures shall maintain a 3 foot side yard, except that no part of any accessory building shall be located closer than 10 feet to any principle structure, either on the same lot or an adjacent lot, unless it is attached to, or forms a part of, such principle structure. In no case shall an accessory building be located less than 60 feet from the front property line.
- (3) Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located.
- (4) Accessory buildings on corner lots shall be set back from the side street a distance not less than that required for the main building.

(C) Temporary Uses Permitted. The following uses of land are permitted in each zoning district (unless restricted to particular zoning districts) subject to the specific regulations and time limits which follow, and to the other applicable regulations of the district in which the use is permitted:

- (1) Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of this ordinance, provided that no tree shall be displayed within 30 feet of the intersection of the curb line of any two streets.
- (2) Contractors office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project, and to continue only during the duration of such project.
- (3) Real estate offices (containing no sleeping or cooking accommodations unless located in a motel dwelling unit) incidental to a new housing development to continue only until the sale or lease of all lots in the development.

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- (4) Seasonal sale of farm produce grown on the premises, to continue for not more than four months per year. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved of the required front yard setback line at the end of the season during which they are used.
 - (5) Promotional activities of retail merchants, involving the display of goods and merchandise may be conducted outside of enclosed buildings for a period of not more than two consecutive weeks in any three month period and retail business may display only merchandise that is for sale within the building in the area immediately adjacent to the building subject to the following conditions:
 - (a) No portion of the display shall be on public owned property.
 - (b) No required off street parking space or loading area will be utilized for such display, storage or dispensing.
 - (c) These provisions shall in no way be deemed to authorize the outdoor display of, or the sale of, used furniture, used appliances, used plumbing, used housewares, used building material or similar display or sale in any business district.

5-103 Standards Governing Home Occupations.

Home occupations shall be governed by the following regulations:

- (A) Home occupations shall not occupy more than ten (10) percent of the total floor area of the main building or if located in an accessory building, shall not occupy more than five (5) percent of the total lot area.
- (B) Home occupations shall be operated entirely from an enclosed structure with no exterior storage of materials or equipment.
- (C) There shall be no visible evidence of the operation and shall not change the residential character thereof.
- (D) The operation shall not substantially increase traffic in the area.
- (E) The operation shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar causes.
- (F) One sign mounted flush on the dwelling units, not having a surface area greater than three (3) square feet may be displayed.

5-104 Projections from Buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than three (3) feet into a required yard or into required open space as established by coverage standards.

5-105 Maintenance of Minimum Ordinance Requirements.

No lot area, yard, or other open space, or required off street parking or loading area existing on or after the effective date of these regulations shall be reduced in area, dimension, or size below the minimum required by this ordinance, nor shall any lot area which is required by this ordinance for one use be used as the lot area, yard, or other open space or off street parking or loading area requirement for any other use.

5-106 General Exception to Lot Size Requirements.

If, at the time of passage of this ordinance, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district, and providing, if there is an area deficiency, residential use shall be limited to a single-family residence. The minimum lot size requirements of (A) and (R) Districts shall not apply to utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulations and major transmission lines (not including utility offices, repair, storage or production facilities).

5-107 Exceptions to Yard Requirements.

The following exception to the front yard requirement for a dwelling is authorized for a lot in any district. If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.

5-108 General Exception to Building Height Limitations.

The following type of structures or structural parts are not subject to the building height limitations of this ordinance: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, masts, aerials, cooling towers, elevator shafts, and other similar projections.

5-109 Access.

All lots shall abut a street other than an alley for a width of at least thirty-five (35) feet.

5-110 Vision Clearance.

Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area:

(A) In a Residential District, the minimum distance shall be thirty (30) feet. At alley intersections in a Residential District, the minimum distance shall be ten (10) feet.

(B) In all other districts, the minimum distance shall be fifteen (15) feet, or, at intersections including an alley, ten (10) feet, except that when the angle of intersection between streets is less than 30 degrees, the distance shall be twenty-five (25) feet.

5-111 Screening.

(A) All exterior activity areas including, but not limited to parking areas, playgrounds, service area, outdoor storage areas incidental to the permitted use, and recreation areas as well as ground floor entrances, exits and windows shall be screened by means of plant materials, earth mounding, architectural screens or siting so as to provide visual and aural separation between these elements and adjacent residential property whether existing or proposed.

(B) Junk yards (salvage yards) shall be screened with an eight (8) foot high opaque, solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.

- (C) All extractive industries shall be screened by means of plant materials, earth mounding, or solid fencing at least six (6) feet in height to provide visual and aural separation between such use and adjacent areas.

5-112 Fences, Walls and Hedges.

Fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that within any required front yard, no fence, wall or hedge shall be over two and a half (2- 1/2) feet in height nor closer than twenty-five (25) feet to a public right-of-way. The only exception to the foregoing shall be that fences of a woven wire type, or at least 80 percent open may be erected to 48 inches in height closer than 25 feet to any property line parallel or perpendicular to a public right-of-way. Fences, walls and hedges shall not exceed seven (7) feet in height (areas excluded above) in Residential Districts.

5-113 Extractive Industries, Salvage Junk Yards, Kennels and Animal Hospitals.

Extractive industries, salvage junk yards, kennels and animal hospitals shall be located a minimum of 660 feet from any Residential District.

5-114 Animals in Residential Districts.

- (A) Cows, horses, sheep, goats, poultry or other fowl shall not be kept on lots having an area of less than one (1) acre, and under no circumstances shall they be kept for commercial uses.
- (B) Domestic rabbits shall not be kept on lots having an area of less than one-half (1/2) acre.
- (C) Animal runs or barns and chicken or fowl pens shall be located on the rear half of the lot but not closer than 70 feet from the front lot line nor closer than 50 feet from any residence.
- (D) Animals, chickens and fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times. All animal or poultry food shall be stored in metal or other rodent-proof containers.

5-115 Swimming Pools.

A swimming pool may be permitted in any district as an accessory use subject to the following additional requirements:

- (A) No public or private swimming pool may be located in any required front yard or side yard abutting a street.
- (B) Every swimming pool must be completely surrounded by a fence or wall not less than 48 inches in height with no openings large enough to permit children to pass through other than gates or doors that can be fastened to protect against entry. A dwelling house or accessory building may be used as part of such required enclosure.
- (C) All gates or doors opening through such enclosures must be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use.

5-116 Buildings on the Same Lot.

Only one principal building shall be permitted on any lot unless approved as part of a planned unit development under Article 7 of this ordinance

5-117 Drive-In Facilities.

Any use permitted in a zoning district which intends to conduct a portion or all of its business with persons desiring to remain in their automobiles, or which allows products to be consumed on the premises outside the principal building, and which is not subject to the conditional use review provisions of Article 3 or is not part of a planned unit development under Article 7, must submit a site plan to be reviewed and approved by the governing body. In reviewing and approving the site plan for such a use, the governing body must be satisfied that the traffic circulation on and adjacent to the site conforms to the following criteria.

- (A) Traffic circulation shall be arranged so that internal pedestrian and vehicular movements are compatible and traffic hazards are minimized.
- (B) Traffic circulation, ingress and egress shall be arranged so as to avoid hazardous or adverse effects on adjacent sites and streets.

5-118 Storage and Parking of Mobile Homes, Trailers and Commercial Vehicles.

Commercial vehicles and trailers of all types, including camping units, travel and hauling trailers and mobile homes, shall not be parked or stored on any lot occupied by a dwelling or on any lot in any Residential District, except in accordance with the following provisions:

- (A) Not more than one commercial vehicle, not to exceed one and one-half (1-1/2) tons rated capacity for each family living on the premises, shall be permitted; and, in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products be permitted.
- (B) Not more than one camping unit, travel or hauling trailer per family living on the premises shall be permitted, and said trailer shall not exceed 32 feet in length or eight (8) feet in width; and, further provided that, said trailer or camping unit shall not be parked or stored for more than one week unless it is located behind the front yard building lines. A camping unit or travel trailer shall not be occupied permanently while it is parked or stored in any area within the municipality and its jurisdiction, except in a Mobile Home Park or Campground authorized under the Mobile Home Regulations of the municipality.
- (C) A mobile home shall not be store din any required front or side yard.

5-119 Design and Regulatory Procedure for Mobile Home Park Development.

A plan, drawn to scale, of the general design of the mobile home court, and showing the location of all rental lots, off street parking, utilities and accessory streets shall accompany any application for a conditional use permit.

(A) Park size:

- (1) The minimum park size shall be two (2) acres in an undeveloped area or one city block when in an existing developed area.
- (2) The maximum density shall be nine (9) mobile homes per acre or eighteen (18) mobile homes per city block.

(B) Rental lot size:

The minimum lot size for a mobile home emplaced upon a rental lot within a mobile home park shall be 2,500 square feet.

(C) Setback requirements for mobile homes emplaced in a Mobile Home Park:

- ten
the
- (1) The minimum distance between mobile homes emplaced in a mobile home park shall be twenty (20) feet as measured between any two adjacent mobile homes.
 - (2) The minimum distance of a mobile home to the nearest public street shall be (10) feet as measured from the rental lot line abutting the public right-of-way to nearest wall of the mobile home.
 - (3) The minimum distance of a mobile home to the nearest accessory street placed within the mobile home park shall be ten (10) feet as measured from the edge of the street to the nearest wall of the mobile home.

(D) Garages, carports, accessory buildings:

Any additions to, or accessory use buildings for the mobile home shall be constructed in conformance with setback requirements as required of the mobile home (Section 5-119

(C)

(E) General design standards--Mobile Home Parks:

- the
diameter.
- (1) Accessory roads through the Mobile Home Park shall be 20 feet wide or wider.
 - (2) Parking drives for mobile homes shall be 10 feet wide or wider.
 - (3) There shall be one and one-half (1 1/2) off street parking spaces provided per mobile home.
 - (4) Sewerage treatment and water facilities shall be provided in accordance with regulations established by the Nebraska Department of Health and as agreed to by the City of Wisner.
 - (5) Electrical installations shall be provided in accordance with all codes and ordinances in effect as of the effective date of these regulations and as agreed to by the City of Wisner.
 - (6) The Mobile Home Park shall provide two entrances. All dead end roads within Mobile Home Park shall provide a minimum turn around of 40 feet in
 - (7) There shall be no on street parking within the Mobile Home Park.
A supplementary parking lot shall be provided if deemed necessary by the Planning Commission, and City Council.

**ARTICLE 6
NONCONFORMING USES, STRUCTURES, LOTS AND SIGNS**

6-101 Continuation of Nonconforming Use or Structure.

Subject to the provisions of Section 6-101 through 6-105, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an extension of a nonconforming use. A complete record of the location, value, nature and extent of all nonconforming uses shall be made and kept by the Administrator.

6-102 Nonconforming Structure.

A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended providing the alteration or extension does not result in a violation of this ordinance.

6-103 Discontinuance of a Nonconforming Use.

- (A) If a nonconforming use involving a structure is discontinued from use for a period of twelve (12) months, further use of the property shall be for a conforming use.
- (B) If a nonconforming use not involving a structure is discontinued for a period of twelve (12) months, further use of the property shall be for a conforming use.
- (C) If a nonconforming use involving a mobile home is discontinued from use, further use of the property shall be for a conforming use.

6-104 Termination of Certain Nonconforming Uses.

A use which is nonconforming with respect to provision for screening shall provide screening within a period of five (5) years from the date of passage of this ordinance.

6-105 Change of Nonconforming Use.

If a nonconforming use is changed, it may be changed to a use similar to the original nonconforming use. Such similar use shall be defined as a use permitted in the same zoning district as the original nonconforming use. In all other cases a nonconforming use shall be changed to a use conforming to the regulations of the district and after change it shall not be changed back again to the original nonconforming use.

6-106 Destruction of a Nonconforming Use.

If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, explosion or act of God, a future structure or use on the property shall conform to the provisions of this ordinance.

6-107 Completion of Building.

Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, except that if the designated use will be nonconforming it shall, for the purpose of Section 6-103, be a discontinued use if not in operation within two years of the date of issuance of the building permit.

6-108 Nonconforming Lots of Record.

(A) In an district in which one-unit dwellings are permitted, a single-family residence and customary accessory buildings may be erected on any single lot of record which exists as such at the time of adoption of this ordinance. Such a lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lots fail to meet the requirements of the district in which it is located for area, or width, or both, provided, however, that the requirements of the district for minimum yard dimensions shall be met unless a variance to said requirements has been granted by the Board of Adjustment.

(B) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption or amendment of this ordinance and part, or all of said lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the lands shall be considered for the purpose of this ordinance to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with lot width and area requirements established by this ordinance.

6-109 Nonconforming Signs.

(A) No such sign may be enlarged or altered in such a manner as to increase its nonconformity; however, any sign or portion thereof may be altered to decrease its nonconformity.

(B) If any such sign or nonconforming portion thereof be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of said destruction, it shall not be reconstructed except in conformity with the applicable provisions of this ordinance.

(C) If any such sign should for any reason be moved from its location, it shall conform to the provisions of the district in which it is located after it is moved.

(D) The right to operate and maintain any nonconforming signs shall terminate within three (3) years after the adoption of this ordinance.

6-110 District Changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, Sections 6-101 through 6-110 shall also apply to any nonconforming uses existing therein.

**ARTICLE 7
PLANNED UNIT DEVELOPMENTS**

7-101 Planned Unit Developments.

In view of the trend toward the development of group houses, planned neighborhoods, shopping centers or other planned developments intended for greater convenience or utility, which may necessitate variations from existing regulations, such variations may be permitted provided the development plan meets all the requirements specified in Article 7.

7-102 Application.

The owner or owners of any continuous tract of land, excluding land in Agricultural District (A), of not less than six (6) acres for residential uses and three (3) acres for non-residential use, unless otherwise permitted by the Planning Commission, may submit an application to the Planning Commission for planned group development. In addition, it is the intent of this ordinance that any residential development of forty (40) acres or more and commercial or industrial development of ten (10) acres or more must be developed as respective Planned Unit Development Districts.

7-103 Types of Planned Unit Development.

The following types of planned unit development may be established by overlaying a PUD development over the applicable existing zoning district or districts. The overlays are as follows:

PUD-R Residential	permitted in District (R)
PUD-C Commercial	permitted in District (C)
PUD-I Industrial	permitted in District (I)

7-104 Zoning Change.

A zoning change is not required; however, each planned unit development requires a public hearing and the development plan must be approved by the governing body.

7-105 PUD-R, Residential.

In those districts where permitted, the total number of dwelling units permitted in a planned unit development shall be determined by dividing the net development area by the minimum lot area requirement of the district in which the planned development is proposed to be located. The area of land set aside for common open space or recreational use shall be included in the net development. Permitted uses and conditional uses in the underlying District, (R), may be permitted in the PUD-R.

When a planned unit development is located in District (R) a maximum of twenty-five (25) percent of the dwellings may be multiple dwellings; however, in no case shall there be more than four (4) dwellings per building.

Commercial uses shall be permitted in the PUD-R District if the planned unit development contains one hundred (100) or more dwelling units. Such commercial centers shall be subject to the following requirements:

- (A) Such centers including parking shall be included as an integral part of the PUD and shall not occupy more than 1.5 percent of the total area of the PUD. Commercial uses in any one development stage shall not be open to use prior to the completion of construction of 50 percent of the dwelling units in that stage.
- (B) Except as stated in Section 7-102, all requirements applicable to the (C) District and to the PUD-C District are applicable to the commercial center in the PUD-R District.
- (C) Such commercial centers shall be limited to categories reasonably necessary to efficiently serve

residents of the planned unit development in which it is located.

7-106 PUD-C, Commercial.

Residential development is permitted when part of the overall development; however, it must meet the requirements of residential uses normally required in the (R) District.

If the development abuts or faces a Residential District, there shall be a buffer strip of at least twenty five (25) feet. The buffer strip shall be fenced or screened as established by the Planning Commission.

7-107 PUD-I, Industrial.

Residential uses are not permitted in planned unit industrial developments.

There shall be no retail uses unless they are accessory in nature and are intended and designed to serve the group development.

There shall be no outside storage unless screened as required by the Planning Commission.

No storage and industrial operation within one hundred (100) feet of residential development shall be permitted.

There shall be a twenty-five (25) foot buffer strip as required by the Planning Commission. Plot or lot coverage shall not exceed sixty (60) feet.

Building height shall not be greater than the height limitation established for the District in which the development is located.

7-108 Submission of the Preliminary Plan.

The developer(s) shall prepare a preliminary plan together with improvement plans and other supplementary material as may be required to indicate the general program and objectives of the project, and shall submit eighteen (18) copies of the preliminary plan to the Administrator's Office at least ten (10) days prior to the Planning Commission meeting at which consideration of the plan is desired.

(A) Scale. The preliminary plan shall be drawn on a sheet eighteen (18) by twenty-four (24) inches or a multiple thereof at a scale of one (1) inch equals one hundred (100) feet, or for areas over one hundred (100) acres, one (1) inch equals two hundred (200) feet.

(B) General Information. The following general information shall be shown on the preliminary plan:

- (1) Proposed name of the PUD. This name must not duplicate nor resemble the name of an existing development, so as to cause confusion.
- (2) Date, north point, and scale of drawing.
- (3) Appropriate identification clearly stating the map is a preliminary plan.
- (4) Location of the PUD sufficient to define the location and boundaries of the proposed tract.
Names of adjacent subdivisions or, in the case of unplanned land, the name of the property owner or owners.
- (5) Names and addresses of the owner, developer, and engineer or surveyor, landscape architect, or any other persons involved in the planning of the proposed development.

(C) Existing Conditions. The following existing conditions shall be shown on the preliminary plan:

tract, section
having

The location, width and names of all existing or platted streets within or adjacent to the together with easements, railroad right-of-way and other important features such as lines and corners, village boundary lines and monuments.

- (1) Contour lines related to some established bench mark or other datum and the following intervals:
 - (a) Five (5) foot contour intervals for ground slopes less than ten (10) percent.
 - (b) Ten (10) foot contour intervals for ground slopes exceeding ten (10) percent.
- (2) Location and direction of all water courses and areas subject to flooding.
- (3) Natural features such as rock outcroppings, marshes, wooded areas, and preservable trees.
- (4) Existing uses of the property, including location of all existing structures to remain
- (5) The location within the development and in the adjoining streets and property of lines existing sewers, water mains, culverts, drain pipes and the electric and gas proposed to service the property to be developed.
- (6) Zoning on and adjacent to the tract.

(D) Proposed Plan of Land Partitioning. The following information shall be included on the preliminary plan.

- relationship plan adopted by plan, as circulation.
- (1) Streets showing location, width, names and approximate grades. The of all streets to any projected streets as shown on any development the Planning Commission, or, if there is no complete development suggested by the Planning Commission to assure adequate area traffic
 - (2) Easements, showing width and purpose.
 - (3) Lots, showing approximate dimensions, minimum lot sizes and proposed lot and block numbers.
 - (4) Sites, if any, allocated for various uses when more than one use is involved.

7-109 Explanatory Information with Preliminary Plan.

The following information shall be submitted in separate statements and maps accompanying the preliminary plan or if practicable, shall be shown on the preliminary plan:

(A) Improvements to be requested of the municipalities and the approximate time such request will be made.

(B) Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, state laws and other applicable regulations. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the preliminary plan, the additional details shall be submitted at least thirty (30) days prior to the time of requested approval of the final plan. Agreements on any recommended changes shall be obtained prior to approval of the final plan.

(C) Other information that may be pertinent to the development.

7-110 Preliminary Review of Proposal.

Within two (2) days after being submitted, the Administrator shall furnish the specified number of copies of the preliminary plan and supplemental material to appropriate municipal departments and to each of the following:

- (A) County Engineer--one (1) copy.
- (B) County Health Department--one (1) copy.
- (C) Fire Department--one (1) copy to each, if necessary.
- (D) Park Department--one (1) copy.
- (E) Utility companies serving the proposed preliminary plan--one (1) copy, each.
 - (1) Electric
 - (2) Gas
 - (3) Telephone
 - (4) Water
- (F) School District Administrator--one (1) copy.
- (G) Nebraska Department of Roads, if development is adjacent to a state highway--one (1) copy.

7-111 Public Hearing.

Within sixty (60) days after receiving the preliminary plan for the proposed Planned Group Development, the Planning Commission will review the plan and the reports of the agencies specified in Section 7-110, and will establish a public hearing date.

Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the municipality not less than twenty (20) days prior to the date of hearing.

7-112 Planning Commission Action.

Within thirty (30) days after the public hearing, the Planning Commission shall approve, approve conditionally, or disapprove the plan.

- (A) If the preliminary plan is disapproved or approved conditionally, the reason for such action shall be stated in writing, a copy of which signed by the Planning Commission Chairman, shall be attached to one (1) copy of the preliminary plan and transmitted to the applicant and a second copy shall be filed in the Planning Commission files until after the final plan is approved.
- (B) If the plan conforms to all the standards, or after the applicant and Planning Commission agree upon any revisions which shall be filed with the Planning Commission on a revised copy, the applicant may proceed with preparation of a final plan. However, this does not constitute acceptance of the plan by the Planning Commission, but merely an authorization to proceed with the preparation of the final plan. These agencies will be given at least ten (10) days to review the plans, suggest revisions and return the plans to the Administrator's Office.

7-113 Final Plan.

Within six (6) months after tentative approval of the preliminary plan, the developer shall cause the final plan to be prepared in conformance with the preliminary plan as tentatively approved. At least five (5) days prior to the meeting of the Planning Commission, at which the final plan is to be considered, the developer shall submit the original drawing of the final plan prepared on a linen in India Ink and three (3) prints of the final plan and supplementary information to the municipality. On the final plan, space for the date and signatures of the following shall be included:

- (A) Owners and developers of tract to be developed.
- (B) Chairman of Planning Commission.
- (C) Mayor of City

7-114 Information on Final Plan.

The final plan shall include all the information required on the preliminary plan with any changes or additions as previously required by the Planning Commission when tentatively approved. The following information shall also be included on, or accompany, the final plan.

- (A) A certificate signed and acknowledged by all parties having any recorded title interest in the tract, consenting to the preparation and recordation of the final plan.
- (B) A certificate signed by the engineer or surveyor responsible for any surveys made during preparation of the plan.

7-115 Planning Commission Action on Final Plan.

The Planning Commission shall review and act upon the final plan within sixty (60) days after it has been submitted for final approval. The Planning Commission shall review and examine the final plan to determine that the plan as shown is substantially the same as it appeared on the approved preliminary plan and that there has been compliance with any conditions that might have been attached to the preliminary plan. If the Planning Commission, after review, determines changes or additions must be made, the developer shall have sixty (60) days to make the changes or additions. If the Planning Commission determines that full conformity has been made, approval of the final plan shall be shown on the plan with the date of such approval, signature of the Chairman of the Planning Commission affixed, and thereafter be sent to the governing body for official action, either approval or disapproval.

7-116 Filing and Recording.

After the plan is duly approved and signed, the linen shall be made part of the permanent file of the Zoning Administrator and the Zoning Map shall be corrected to show the attachment of the planned unit development.

7-117 Permit.

After filing and recording the final plan, the Planning Commission shall notify the Administrator, in writing, to issue a permit for the planned unit development.

7-118 Changes in Plan.

A building permit shall not be issued for any building which does not conform to the plan, except that a reasonable adjustment to location and gross floor area of individual buildings may be granted after a review of the Planning Commission. If the Planning Commission does not approve the adjustment, then the developer shall proceed in accordance with the final plan.

7-119 Time Limit.

The developer shall make a reasonable effort to commence construction of the proposed planned unit development within one (1) year from the date of approval.

7-120 Development Standards.

The following standards shall apply to all planned unit development:

- (A) The tract must be a continuous parcel, six (6) acres or more, under one (1) ownership or held jointly by two (2) or more owners.
- (B) The proposed development shall be designed to produce an environment of a stable and desirable character, not out of harmony with its surrounding neighborhood, and shall not conflict with the Comprehensive Plan or any parts thereof.
- (C) Buildings within a residential or office, or institutional planned unit development may be relieved of District regulations concerning yard size, setback, height, bulk, and other requirements where such requirements interfere with the overall development. However, the buildings within one hundred (100) feet or adjacent to the boundaries of the outer limits of the development shall maintain the requirements as established for the District.
- (D) Off street parking and loading shall be provided in accordance with the District.
- (E) Signs shall be permitted in accordance with the District.
- (F) The Planning Commission shall establish some method of assurance that the development will be completed within five (5) years of the final acceptance of the plan.

**ARTICLE 8
BOARD OF ADJUSTMENT**

8-101 Establishment.

The Board of Zoning Adjustment established in accordance with State Law and hereinafter called the Board, shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. . The Board shall organize, adopt rules, hold meetings and keep records all as provided by law.

8-102 Powers and Duties.

The Board shall have the powers and duties prescribed by law and by these regulations, which are more particularly specified in Section 8-103 through 8-106.

8-103 Interpretations.

The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in this ordinance have the following powers:

(A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official, or an agency based on or made in the enforcement of this zoning ordinance or any regulation relating to the location or soundness of structures.

(B) To hear and decide, in accordance with the provisions of this ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass.

(C) 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 such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, the Board may grant a variance.

In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

8-104 Variances.

The Board of Zoning Adjustment may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance the Board of Zoning Adjustment may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this ordinance. No variance shall be granted unless it can be shown that all of the following conditions are met:

- (A) The strict application of this ordinance would produce undue hardship.
- (B) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (C) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (D) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (E) The hardship does not result from the action of the owner of the property.
- (F) The granting of such variance will not confer on the owner of such property any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

8-105 Action on a Variance.

No variance shall be authorized unless the Board finds that the conditions or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to the ordinance.

8-106 Procedure for Review of a Variance.

The procedures to be followed by the Board of Zoning Adjustment shall be as follows:

- (A) Written applications for the approval of the variances referred to in Sections 8-104 and 8-105 shall be filed with the Board upon forms and in a manner prescribed by the Board. A fee of Ten Dollars (\$10.00) shall be paid to the Administrator of this ordinance, or his agent, upon the filing of each application for variance, for the purpose of defraying costs of the proceedings described herein. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such manner as prescribed by law. Such applications, which appeal decisions by the enforcing officer, shall be made within twenty (20) days of the date of such decision.
- (B) The Board shall hold a public hearing on each application for a variance. The notice of a public hearing shall be at least ten (10) days prior to the public hearing. Applications must be accompanied with a certified list of property owners of record, and their addresses, if available and if not available, then the addresses of the occupant of the premises, if tenanted, in all directions from the subject property, for a distance of not less than 300 feet.
- (C) The Board shall make its findings and determination in writing within forty (40) days from the date of filing the application and shall forthwith transmit a copy thereof to the applicant.
- (D) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, which shall be a public record.
- (E) In approving applications for variances, the Board shall have authority to impose such conditions as it deems necessary to protect the best interest of the surrounding property or neighborhood.

8-107 Appeals from the Board of Zoning Adjustment.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, may seek review of such decision by the district court in the manner provided by the laws of the State and particularly by Chapter 23, Laws of Nebraska.

**ARTICLE 9
DUTIES AND FEES**

9-101 Duties of Officials.

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrator, and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from the decision of the Administrator, and that recourse from the decision of the Board of Zoning Adjustment shall be to the courts as provided by law and particularly by Chapter 23, Laws of Nebraska.

It is further the intent of this ordinance that the duties of the governing body, as such, in connection with this ordinance shall include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance the governing body shall have only the duties (1) of considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law; and (2) of establishing a schedule of fees and charges as stated in Section 9-102.

9-102 Fees.

The governing body shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, certificates of zoning compliances, appeals, amendments to the zoning map, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Administrator and the Municipal Clerk, and may be altered or amended only by the governing body.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**ARTICLE 10
AMENDMENTS**

10-101 Authorization and Hearing.

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed or repealed, provided however, that no such action may be taken until after public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the municipality.

An amendment may be initiated by the governing body by a motion of the Planning Commission, or by written petition of any property owner addressed to the governing body. The governing body shall act on such petitions within ninety (90) days of receipt. Having once considered a petition, the governing body will not consider substantially the same petition for one year.

10-102 Justification.

All proposed amendments (except those initiated by the Planning Commission) for study and recommendation. The Planning Commission shall study the proposals to determine:

- (A) The need and justification for the change.
- (B) When pertaining to a change in the district classification of property, the affect of the change, if any, on the property and on surrounding properties.
- (C) When pertaining to a change in the district classification of property, the amount of undeveloped land in the general area and in the municipality and its jurisdiction having the same district classification as requested.
- (D) The relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purposes of this ordinance and the comprehensive plan.

10-103 Action by Planning Commission and Governing Body.

Within forty-five (45) days from the date that any proposed amendment is referred to it (unless a longer period shall have been established by mutual agreement between the governing body and the Planning Commission in the particular case) the Planning Commission shall submit its report and recommendation to the governing body. The recommendation of the Planning Commission shall be advisory only and shall not be binding on the governing body. If the Planning Commission does not submit its report within the prescribed time, the governing body may proceed to act on the amendment without further awaiting the recommendations of the Planning Commission.

10-104 Minimum Size of Parcel.

No amendment changing the zoning classifications of any lot, parcel or tract of land shall be adopted unless such lot, parcel or tract has one hundred (100) feet of frontage on a public street, or has ten thousand (10,000) square feet of area, or abuts on a lot, parcel or tract of land that has the same zoning classification as that which is proposed for the property which is the subject of the proposed amendment.

**ARTICLE 11
ADMINISTRATION, ENFORCEMENT AND INTERPRETATION**

11-101 Enforcement.

The Administrator, designated by the governing body, shall have the power and duty to enforce the provisions of this ordinance.

11-102 Form of Petitions, Applications and Appeals.

All permits, petitions, applications and appeals provided for in this ordinance shall be made on forms provided for the purpose or as otherwise prescribed by the Planning commission, Board of Zoning Adjustment or governing body in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record. All applications for building and occupancy permits shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be used and/or built upon; the exact sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure, or part thereof; the number of families to be accommodated, if any; and such other information as is needed to determine conformance with the provisions of this ordinance and of the building code.

11-103 Permits on Unplatted Land.

There shall be no building permit issued on a plot which does not consist of a platted lot or lots duly approved and recorded, except, that on twenty (20) acres or more where the use of said land is entirely for agricultural purposes, a building permit shall be issued.

11-104 Permits in Areas of Known Flooding.

There shall be no building permits issued for a structure to be used for human habitation on a plot of land which is subject to flooding, except that permit may be issued if the grade elevation of such structure is located not less than three (3) feet above the highest official or known flood elevation.

11-105 Temporary Permits.

The Administrator shall issue temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots thereon.

11-106 Time Limit on a Permit for Conditional Use or a Variance.

(6) A building permit for a conditional use or for a use involving a variance shall be void after six months, from the day of issuance if no substantial (25% of the total project) construction has taken place.

11-107 Interpretation.

The provisions of this ordinance shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by any provision of this ordinance or of any other resolution, or regulation, the provisions which are more restrictive shall govern.

11-108 Severability.

The provisions of this ordinance are hereby declared to be severable. If any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

11-109 Penalty.

The owner or owners of any building or buildings or premises or part thereof where anything in violation of this ordinance exists or is placed or maintained; and any architect, builder, or contractor who assists in the commission of any such violation; and all persons or corporations who violate or maintain any violation of any of the provisions of this ordinance or who fail to comply therewith or with any requirements thereof or who build in violation of any statement of plan submitted and approved thereunder shall, for each and every violation or noncompliance, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each offense. Every person violating or contributing in any way to the violation of any provision of this ordinance shall be deemed guilty of a separate offense for each day during which such violation continues and may be punished therefor as herein provided.

**ARTICLE 12
DEFINITIONS**

12-101 Definitions.

As used in this ordinance, the Wisner Planning Commission, is defined as the Planning Commission. As also used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural.

The following words and phrases, unless the context otherwise requires, shall mean:

- (1) Accessory structure or use. A structure or use incidental and subordinate to the main use of the property, including a home occupation, and which is located on the same lot with the main use.
- (2) Administrator. The designated administrator of the municipality to administer the regulations within this ordinance. The Administrator shall be designated by the municipality.
- (3) Alley. A tract of land dedicated for public use along the side of or in the rear of lots intended to provide a secondary means of access to and from streets and such lots.
- (4) Apartment House. See dwelling, multiple-family.
- (5) Basement. That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.
- (6) Billboard. See sign.
- (7) Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, excluding fences.
- (8) Building Coverage. Any area or a portion of lot which is covered by all buildings on that lot.
- (9) Building Height. The vertical distance measured from the lowest point of finished grade on the lot within 25 feet of the building to the uppermost point of the roof,
- (10) Business Or Professional Office. The office of an engineer, planner, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional persons, and any office used primarily for accounting, correspondence research, editing or administration.
- (11) Camping Unit. Any pickup camper, motor home, travel trailer, tent trailer or similar mobile length unit not exceeding either eight (8) feet in body width or thirty-two (32) feet in body and designed specifically for recreational and vacation purposes.
- (12) Camping Unit Campground. Any plot of improved property utilized for camping and parking of camping units as herein defined. Such a Camping Unit Campground shall be referred to as a "campground" for the purposes of this Ordinance.

- land space (13) Common Open Space. A parcel of land or an area of water or a combination of both and water within any site designated as a planned unit development. Common open space does not include streets, alleys, parks, off street parking and loading areas, public open space or other facilities dedicated by the developer for public use. Common open space shall be substantially free of structures but may contain such improvements that are approved as part of the planned unit development and are appropriate for the recreation of residents of the planned unit development.
- other (14) Comprehensive Plan. An official map or street plan, the future use map or plan, or any long range plan or map of the municipality.
- (2) (15) Corner Lot. A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street and where, in either case, the interior angle formed by the intersection of street lines does not exceed 135 degrees.
- (16) County. The County of Cuming County, Nebraska.
- (17) County Board. The County Board of Supervisors,
- open (18) Density. The number of dwelling units per acre of land devoted to housing and usable space.
- bulk (19) District. An area or areas within the incorporated part of the municipality and its jurisdictional area for which the regulations and requirements governing use, lot and of building and premises are uniform.
- part, (20) Drive-in Establishment. An establishment which is designed to provide, wholly or in service to customers while they remain in their automobiles parked upon the premises.
- (21) Dwelling, multiple-unit. A building containing two or more dwelling units.
- (22) Dwelling, one-unit. A detached building containing one dwelling unit.
- (23) Dwelling, Ranch and Farm. Residential dwellings appurtenant to agricultural operations including living quarters for persons employed on the premises (but not including labor camps or dwellings for transient labor) guest houses not rented or otherwise conducted as a business, and private garages, stables, and barns.
- for (24) Dwelling, single-unit. A detached principal building other than a mobile home designed or used as a dwelling exclusively by one family as an independent living unit.
- having (25) Dwelling unit. One or more rooms designed for occupancy by one family and not more than one cooking facility.
- corporation, or (26) Easement. The authorization by a property owner for the use by the public, a persons of any designated part of his property for specific purposes.
- largest (27) Employees. All persons, including proprietors, working on the premises during the shift at peak season.

- (28) Essential Governmental or Public Utilities Services. The erection, construction, alternation or maintenance by public utilities or municipal departments of underground or overhead gas, electrical, steam or water transmission distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.
- (29) Family. An individual, or two or more persons related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit in which board and lodging may also be provided for not more than four additional persons, excluding servants; or a group of not more than five (5) persons who need not be related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit.
- (30) Feet Lots. The confined feeding of food, fur or pleasure animals in buildings, lots, pens, pools, or ponds which normally are not used for raising crops or for grazing animals. For the purpose of this ordinance, the term feed lot shall include the confined feeding of: 150 or more feeder or fat cattle, 100 or more beef cows, 100 or more dairy cattle, 500 or more wine, 2,000 or more sheep, 3,000 or more turkeys, or 10,000 or more chickens, ducks or geese.
- (31) Fence, sight obscuring. A free-standing structure of metal, masonry, composition, or wood or any combination thereof resting on or partially buried in the ground and rising above ground level used for confinement, screening, or partition purposes or a dense evergreen planting.
- (32) Frontage. That portion of a lot, parcel, tract or block abutting upon a street.
- (33) Garage, private. An accessory building or portion of a main building used for the parking or temporary storage of vehicles or used by occupants of the main building.
- (34) Garage, public. A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.
- (35) Gasoline Service Station. A building or premise on or in which the principal use is the retail use of gasoline, oil or other fuel for motor vehicles which may include as an incidental use only, facilities used for polishing, greasing, washing or otherwise cleaning or light servicing of motor vehicles, but may not include liquefied petroleum gas distribution facilities or facilities for major repairs for motor vehicles.
- (36) Governing Body. The elected governing body of the City of Wisner.
- (37) Grade (ground level). The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five (5) feet of a sidewalk, the above ground level should be measured at the sidewalk.

- (38) Home occupation. An occupation carried on within a dwelling or accessory building by members of the family occupying the dwelling with no servant, employee, or other persons being engaged, provided the residence character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
- (39) Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.
- (40) Hotel. A building in which lodging is provided for guests for compensation and in which provision is made for cooking in the guest rooms.
- (41) Junk Yard (Salvage). Any lot, parcel or tract used for storage, keeping, sale or of junk and/or for the dismantling, demolition or abandonment of three (3) or more unlicensed motor vehicles or other junk or parts thereof.
- (42) Kennel. A lot or building in which four or more dogs or cats at least four months of age are kept commercially for board, propagation, or sale.
- (43) Lot. A parcel or tract of land which is occupied by a structure together with the yards and other open spaces required by this ordinance.
- (44) Lot area. The total horizontal area within the lot lines of a lot.
- (45) Lot, Double Frontage. A lot which runs through a block from street to street and which has two (2) non-intersecting sides abutting on two (2) or more streets.
- (46) Lot, depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.
- (47) Lot, interior. A lot other than a corner lot.
- (48) Lot line. The property line bounding a lot.
- (49) Lot line, front. In the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street than an alley.
- (50) Lot line, rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and a maximum distance from the front lot line.
- (51) Lot line, side. Any lot line not a front or rear lot line.
- (52) Lot width. The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

- (53) Mobile Home. A structure designed to be transported after fabrication and exceeding eight (8) feet in body width or thirty-two (32) feet in body length. Such a structure is either built on a chassis and retains the chassis on which it was built, whether or not such structure is placed on a permanent foundation. Such a structure is suitable for human habitation on a year-round basis when provided with the required plumbing, heating, and electrical facilities. "Mobile Home" shall not include any camping unit such as travel trailers, campers, or self-contained "motor homes" or "camper buses."
- (54) Mobile Home Park. Any plot of ground upon which two (2) or more mobile homes, occupied or intended to be occupied for dwelling or sleeping purposes, are located for periods of longer than ninety (90) days, regardless of whether or not a charge is made for such accommodation.
- (55) Mobile Home Space. A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.
- (56) Modular Home. A structure designed to be transported after fabrication and located as a permanent addition to, and becoming part of, the real property. Such a structure must meet requirements as accepted by the Federal Housing Administration or the Veteran's Administration. Such structure must be set on a permanent foundation and is subject to all local building, zoning, and housing regulations. Any such modular home meeting the requirements herein defined is not considered a mobile home.
- (57) Motel. A building or group of buildings on the same lot containing guest units with separate entrances from the building exterior and consisting of individual sleeping quarters.
- (58) Municipality. The City of Wisner.
- (59) Net Development Area. All land area in a Planned Unit Development less land in slopes in excess of 15 percent.
- (60) Nonconforming structure or use. A lawful existing structure or use at the time this ordinance or any amendments thereto becomes effective which does not conform to the requirements of the zone in which it is located.
- (61) Parking, off street. Parking of motor vehicles off the public rights-of-way.
- (62) Parking space. A rectangle area containing not less than two hundred (200) square feet with maneuvering and access space required for a standard American automobile to park within the rectangle.
- (63) Person. Every natural person, firm, partnership, association, or corporation.

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of
- (64) **Planned Unit Development.** A project of a single owner or a group of owners acting involving a related group of residences, or businesses, or industries and associated uses, planned as a single entity and therefore subject to development and regulation as one use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional, open space for the mutual benefit of the entire tract and is designed to provide variety and diversity through the variance of normal zoning and subdivision standards so that maximum long-range benefits can be gained and the unique features of the development or site is preserved and enhanced, while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing. A Preliminary Plat and a Final Plat must be submitted and processed through the subdivision procedures as provided in the Subdivision Regulations of the Municipality or County (if applicable).
- supporting
- (65) **Plan, Preliminary.** The map or maps of planned unit development, and specified materials, drawn and submitted.
- (66) **Plan Final.** A map and supporting materials of the approved preliminary plan.
- any
- (67) **Premises.** A general term meaning part or all of any lot, parcel or tract or part or all of building or structure or group of buildings or structures located thereon.
- (68) **Property Line.** The boundary of any lot, parcel or tract as the same is described in the conveyance to the owner, and shall not include the streets or alleys upon which the said lot, parcel or tract may abut.
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- (69) **Public Hearing.** A meeting called by a public body for which public notice has been and which is held in a place in which the general public may attend to hear issues and express their opinions.
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sewage,
- (70) **Public or Central Sewerage System.** A public sewerage system that is used or designed used for collection, treatment (primary and secondary), and discharge of domestic industrial or commercial wastes from two (2) or more residential units; two (2) or more mobile home spaces in mobile home subdivisions or mobile home parks; two or more lots or properties located in platted subdivisions; or two (2) or more industrial or commercial properties.
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- (71) **Public or Central Water Supply System.** A public water supply system which serves two or more residential units; two (2) or more mobile home spaces in residential units; two or more mobile home spaces in mobile home subdivisions or mobile home parks; two more lots or properties located in platted subdivisions; or two (2) or more industrial or commercial properties.
- resale.
- (72) **Retail.** Sale to the ultimate consumer for direct consumption and/or use, and not for resale.
- reserved
vehicular
- (73) **Right-of-Way, Public.** All streets, roadways, sidewalks, alleys, and all other areas for present or future use by the public, as a matter of right, for the purpose of or pedestrian travel.

- (74) Screening. Decorative fencing, evergreen vegetation or earth berms maintained for the purpose of concealing from view the area behind such screening. When fencing is used for screening, it shall be not less than six (6) nor more than eight (8) feet in height.
- (75) Service drive. A driveway entering a street from a drive-in business establishment or an off dwelling street parking area, excluding residential driveways, serving fewer than ten (10) units.
- (76) Setbacks. See Yard, Yard Front, Yard Rear, and Yard Side.
- (77) Sign. A presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of advertising. This includes the board, metal, or surface upon which the sign is painted, included, or attached. Each display surface of a sign shall be considered to be a sign.
- (78) Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.
- (79) Street. The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms "road," "highway," "land," "place," "avenue," "alley," or other similar designations.
- (80) Structure. That which is built or constructed. An edifice or building of any kind or any piece manner of work artificially built up or composed of parts jointed together in some definite and which requires location on the ground or which is attached to something having a location on the ground, such as a permanent foundation.
- (81) Structural alteration. Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams or girders, or any structural change in the roof.
- (82) Subdivision. The division of a lot, tract, or parcel of land into two or more sites, or other when divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision the parcel of land created is more than five acres in area.
- (83) Use. The purpose for which land or a structure is designed.
- (84) Use, Accessory. A subordinate use which is customarily incidental to the principal building or to the principal use of the lot.
- (85) Use, Conditional. A use which may be permitted in a zone district upon favorable action by the Governing Body.

- (86) Use, Nonconforming. A use which lawfully occupied a building or land at the time this Ordinance or an amendment hereto became effective and which does not now conform with the use regulations applicable in the zone district in which it is located.
- or (87) Use, Principal. The main use of land or structures as distinguished from a subordinate accessory use.
- conditional (88) Use Regulations. The provisions of this Ordinance which identify permitted and regulate uses, impose use limitations, require adherence to performance standards and accessory uses.
- (89) Use, Temporary. A use which, by nature and intent, exists for a short time only.
- a (90) Vision clearance area. A triangular area on a lot at the intersection of two (2) streets or street and a railroad, two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in this Ordinance. The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding three and one-half (3 1/2) feet in height measured from the top of the curb or existing grade.
- (91) Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.
- the (92) Yard, Front. A yard between side lot lines and measured horizontally at right angles to front lot line from the front lot line to the nearest point of the main building.
- (93) Yard, Rear. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.
- right (94) Yard, Side. A yard between a building and the side lot line measured horizontally at angles to the side lot line from the side lot line to the nearest point of the building.
- (95) Driveway. An all weather surfaced vehicle access way from a city street to a garage or parking area adjacent to, or within close proximity (10 feet or less) of a habitable structure.