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CHAPTER 10 – ZONING REGULATIONS

(Revised 11/8/2016)

Article 1 – Construction and Definitions

SECTION 10-101: CONSTRUCTION

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this chapter.

- Tense: Words used in the present tense include the future tense.
- Number: Words used in the singular include the plural, and words used in the plural include the singular.
- Shall and may: The word "shall" is mandatory; the word "may" is permissive.
- Gender: The masculine shall include the feminine and the neuter.
- Headings: In the event there is any conflict or inconsistency between the heading of an article, section or paragraph of this chapter and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

SECTION 10-102: GENERAL TERMINOLOGY

"City" shall mean the City of Neligh, Nebraska. "City Council" shall mean the City Council of Neligh, Nebraska. "Planning Commission" shall mean the Planning Commission duly appointed by the City of Neligh. "Board of Zoning Adjustment" shall mean the Board of Zoning Adjustment duly constituted in accordance with these regulations.

SECTION 10-103: DEFINITIONS

Words or terms not herein defined shall have their ordinary meaning in relation to the context. For the purpose of this chapter, certain words and terms used herein are defined as follows:

"Accessory building or use" shall mean a subordinate building, located on the same lot as the main building, the use of which is naturally and normally incidental to that of the dominant use of the main building or land. An accessory use is one which is naturally and normally incidental to the main use of the premises.

"Alteration," as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing height, or the moving from one location or position to another shall be considered an alteration.

"Basement" shall mean that part of a building partly underground but having at least one-half of its height above the average grade of the adjoining ground. A basement shall be counted as a story if used or intended to be used for dwelling or business purposes.

"Block" is an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of

the above with a river or lake, and which has been designated as such on a plot for description purposes.

"Boarding house" shall mean a building other than a hotel where, for compensation and by prearrangement, meals, lodging, or meals and lodging are provided for three or more persons. Individual cooking facilities are not provided.

"Building" includes the word "structure" and shall mean any structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors, windows or similar openings. A principal building, including covered porches and paved patios, is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

"Height of building" shall mean the vertical distance measured from the average elevation of the finished lot grade at the front of the building to:

- A. The highest point of a flat roof,
- B. The deck line of a mansard roof, or
- C. The average height between the plate and ridge for a gable, hip or gambrel roof.

"Campground" shall mean any premises where two or more camping units are parked or placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

"Common open space" shall mean an area of land or water or combination thereof planned for passive or active recreation, not including area utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

"Comprehensive plan" is the plan or series of plans for the future development of the City recommended by the Planning Commission and adopted by the City Council.

"Cul-de-sac" is a street having one end open to traffic and being terminated by a vehicular turnaround.

"District" shall mean any section of the City within which the zoning regulations are uniform.

"Dwellings" shall mean any building or portion thereof which is designed or used for residential purposes.

"Single-family dwelling" shall mean a detached building designed for or occupied exclusively by one family, excluding mobile homes and cabin trailers.

"Multiple dwelling" shall mean a building or portion thereof, designed for or occupied by two or more families, independently, excluding mobile homes and cabin trailers.

"Dwelling unit" shall mean one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or

dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

"Easement" shall mean a grant by the property owner to the public, a corporation or persons of the use of a tract of land for a specific purpose or purposes.

"Efficiency unit" shall mean a dwelling unit having only one room exclusive of bathroom, water closet compartment, kitchen, laundry, pantry, foyer, communicating corridor, closets or any dining alcove. An efficiency unit shall be permitted only in a multi-family dwelling.

"Family" shall mean one or more persons occupying a premises, living as a single house-keeping unit and doing their own cooking on the premises, as distinguished from a group occupying a boarding house, a lodging house, club or hotel, as herein defined. A family shall under no circumstances be construed as a boarding house, club, lodging house, hotel or motel.

"Farmstead" shall mean an area of 20 acres or more on which is located at least one farm residence and on which farm products of a value of \$1,000.00 or more are normally produced each year. A farmstead shall also include an aggregate area of 20 acres within three miles of the farm residence under single ownership on which farm products of a value of \$1,000.00 or more are normally produced each year.

"Feedlot" shall mean the confinement of horses and food animals in building lots, pens, pools or ponds that normally are not used for raising crops or grazing animals.

"Floodway, District" shall mean a floodway whose limits have been designated and established by order of the Nebraska Natural Resources District.

"Floodway, selected" shall mean a floodway within the limits of a commission floodway which is recognized by the Nebraska Natural Resources District as being subjected to a high degree of flood hazard.

"Frontage" shall mean the length of the property abutting one side of a street measured along the dividing line between the property and the street.

"Home occupation" shall mean an occupation conducted in a dwelling unit, provided that:

- A. No more than one other person, in addition to members of the family residing on the premises, shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 30% of the floor area of the dwelling shall be used in the conduct of the home occupation;
- C. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated and mounted flat against the wall of the principal building;
- D. The home occupation shall be carried on entirely within the principal residential structure and under no circumstances shall the home occupation be carried on within a detached accessory building;

- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference fluctuations in line voltage off the premises;
- G. No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes;
- H. No outdoor storage of materials or equipment used in the home occupation shall be permitted.

"Hotel" shall mean a building in which lodging, boarding, or lodging and boarding are provided and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times. As such, it is open to the public, in contradistinction to a boarding house, a lodging house, or an apartment house, which are herein separately defined.

"Institution" shall mean a nonprofit establishment for public use.

"Kennel, boarding" shall mean any place, area, building or structure where dogs, including those under one year of age, are boarded, housed, cared for, fed or trained by other than the owner.

"Kennel, breeder" shall mean any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee.

"Light industry" is hereby defined to be the manufacture or assembly of any product except those industries or assemblies which are offensive, injurious, noxious or hazardous by reason of emission of odors, dust, fumes, smoke, noise or vibrations.

"Lodging house" shall mean a building other than a hotel, where for compensation, lodging is provided for three or more persons.

"Loop, street" shall mean a street having both ends terminating on another single street.

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

- A. A single lot of record,
- B. A portion of a lot of record or portions of lots of record, or
- C. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

"Lot depth" shall be considered to refer to the distance between the mid-points of straight

lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

"Lot frontage" shall be construed to refer to the portion nearest the street. For purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this article.

"Lot of record" shall mean a lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds of Antelope County, or a parcel of land described by metes and bounds, the description of which has been so recorded.

"Major recreational equipment" is defined as including boats and boat trailers, travel trailers, pickup campers or coaches designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not, and shall include the term "recreation vehicle."

"Mobile home" shall mean any transportable dwelling unit designed and constructed on a chassis that is capable of being transported after fabrication on its own wheels, or detachable chassis and wheels. This shall include doublewide mobile homes.

- A. Permanently attached: attached to real estate owned by the title holder of the mobile home in such a way as to require dismantling, cutting away, unbolting from foundation or structural change in such mobile home in order to relocate it on another site.
- B. Modular home (does not include double-wide mobile homes): any prefabricated structure of conventional construction used for dwelling purposes moved onto a site in essentially completed condition, in one or more parts, and when completed is a single-family unit on a permanent foundation, attached to the foundation with permanent connections. Modular homes shall be considered single-family dwellings for purposes of this chapter.

"Nonconforming structure" shall mean a structure which does not comply with the structures in the zoning district in which it is located.

"Nonconforming use" shall mean an existing use of a building or land which does not conform to the use regulations of the district in which it is situated as established by these regulations or any amendments thereto.

"Parkways" shall mean those streets which are similar to an arterial, but with a large median for landscaping and somewhat slower traffic flow.

"Pedestrian ways" shall mean a tract of land dedicated to public use which cuts across a block to facilitate pedestrian access to adjoining streets or properties.

"Permanent foundation" shall mean the masonry or concrete substructure of a structure which directly supports such structure around its entire perimeter and at points within its perimeter where needed.

"Planned development" shall mean the special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in this chapter and as approved by the City Council.

"Special use permit" shall mean a written permit issued by the zoning administrator with the authorization of the Planning Commission. This special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations.

"Story" shall mean that portion of a building, other than a basement or cellar, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

"Street" shall mean a public thoroughfare which affords the principal means of access to abutting property.

"Street line" shall mean a dividing line between a lot, tract or parcel of land and the contiguous street; the right-of-way line of a street.

"Street, marginal" shall mean a minor street which is parallel to and adjacent to an arterial street and which serves to reduce the number of access points to the arterial street and thereby increase traffic safety.

"Street network" shall mean:

- A. Expressway: a street which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
- B. Arterial: a street which provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances and exits.
- C. Collector: a street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
- D. Local: a street which provides direct access to abutting land, and local traffic movement whether in business, industrial or residential land.

"Traveled way" shall mean the portion of a roadway, street or highway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

"Variance" shall mean a relaxation of the terms of the zoning chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship

"Yard" shall mean a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility and subject to the district regulations; in the case of through lots, unless the prevailing front yard pattern on adjoining lots indicated otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the zoning administrator may waive the requirement which shall not exceed the average of the yards provided on adjacent lots. In the case of corner lots which do not have reversed frontage, a front yard of the required

depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage, unless otherwise provided in the district regulations.

"Front yard" shall mean a yard extending from the front lot line adjoining a public street to the front of the building between side lot lines. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and ten feet. In case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second yard of half the depth required generally for front yard in the district shall be provided on the other frontage unless otherwise provided in the district regulations. In the case of corner lots with more than two frontages, the zoning administrator shall determine the front yard requirements subject to the following limitations:

- A. At least one front yard district and
- B. No other front yard on such lot shall have less than half the full depth required generally. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. The front lot line and the inner edge of the front yard shall be parallel.

"Rear yard" shall mean a yard extending from the rear lot line to the rear of the building between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, only front and side yards. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

"Side yard" shall mean a yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half-depth front yards have been established shall be considered side yards. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

"Zone" shall mean a section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of the use of buildings, land and open spaces about buildings are herein established.

"Zoning administrator" shall mean the person or persons authorized and empowered by the City Council to administer the requirements of these zoning regulations.

"Zoning area" shall mean the area to be zoned as set out on the official zoning map filed and on record.

"Zoning regulations" and "these regulations" shall mean the requirements stipulated in the regulations in this chapter.

Article 2 – Board of Zoning Adjustment

SECTION 10-201: CREATION, TERMS, MEETINGS, RULES

The City Council shall appoint a Board of Zoning Adjustment which shall be comprised of five residents of the City. The Board of Zoning Adjustment, once appointed by the City council, shall organize itself and shall elect one of its members as chairman, another as vice chairman who shall act as chairman in the chairman's absence, and a secretary who may be an officer or an employee of the City. The board members shall serve at the pleasure of the mayor and City Council, and any member may be removed by a majority vote of the council. Each shall serve until his/her successor has been selected. The Board of Zoning Adjustment shall adopt rules according to the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The board shall keep complete and accurate minutes of its proceedings showing evidence presented, findings of the facts by the board, decisions of the board and the vote upon each question. Records of all official actions shall be kept in the office of the clerk and shall be open to public inspection during reasonable business hours. All meetings of the board shall be open to the public. (Ref. Neb. Rev. Stat. Sec. 19-908)

SECTION 10-202: APPEALS TO BOARD OF ZONING ADJUSTMENT

The Board of Zoning Adjustment shall hear and decide appeals or other matters referred to it regarding the application of this chapter. The board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of time, place and subject of such hearing shall be published once in the official city newspaper at least ten days prior to the date fixed for hearing. A copy of said notice shall be mailed to each party in interest and to the Planning Commission. Appeal to the board may be taken by any person aggrieved, or by any officer of the City or any governmental agency or body affected by any decisions of the officer administering the provisions of this chapter. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefor. The officer from whom the appeal is taken, when notified by the board or its agent, shall forthwith transmit to the board all the papers constituting the record upon which actions were taken leading to such appeal.

SECTION 10-203: POWERS AND JURISDICTION RELATING TO ADMINISTRATIVE REVIEW

The Board of Zoning Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an zoning administrator or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map.

SECTION 10-204: POWERS AND JURISDICTION RELATING TO VARIANCES

The Board of Zoning Adjustment shall have the power to hear and decide, in accordance with the provisions of this chapter, requests for variances upon which the board is authorized by this chapter to pass; to decide such questions as are involved in determining whether variances should be granted; and to grant or to deny variances under this chapter when not in harmony with the purpose and intent of this chapter. A variance shall not be granted by the board unless and until:

A. *Application*: A written application for a variance is submitted indicating the section of this chapter under which the variance is sought and stating the grounds on which it is required.

B. *Hearings*: A public hearing shall be held. Any party may appear in person, or by agent or attorney.

C. *Findings*: The board shall make a finding that it is empowered under the section of this chapter described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest.

D. *Rules Governing Individual Variances*: Before any variances shall be issued, the board shall make written findings certifying compliance with the specific rules governing individual variances.

(Ref. Neb. Rev. Stat. Sec. 19-910)

SECTION 10-205: POWERS AND JURISDICTION RELATING TO VARIANCES

The Board of Zoning Adjustment shall have the power to authorize in specific cases a variance from the specific terms of this chapter which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship; and provided that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. (Ref. Neb. Rev. Stat. Sec. 19-910)

SECTION 10-206: BOARD HAVING POWERS OF ADMINISTRATIVE OFFICER ON APPEALS; REVERSING DECISION OF ADMINISTRATIVE OFFICER

In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made, and to that end shall have all powers of the officer from whom the appeal is taken. A concurring vote of four-fifths of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

SECTION 10-207: APPEALS TO DISTRICT COURT

Any person, official or governmental agency aggrieved with any decision or determination of the board may present a petition to the District Court, specifying the grounds of illegality and the procedure thereof as provided for in Neb. Rev. Stat. §19-912.

SECTION 10-208: DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF ZONING ADJUSTMENT, AND COURTS ON MATTERS OF APPEAL

It is the intent of this chapter that all questions of interpretation and enforcement shall first be presented to the zoning administrator and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from the decision of such zoning administrator, and that recourse from the decisions of the board shall be to the courts as provided by law. It is further the intent of this chapter that the duties of the City Council in connection with this chapter shall not 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 chapter. Under this chapter, the council shall have

only the duties of considering and adopting or rejecting proposed amendments or the repeal of this chapter as provided by law and of establishing a schedule of fees and charges as stated herein.

SECTION 10-209: ADMINISTRATION AND ENFORCEMENT

An administrative official who shall be known as the zoning administrator and who shall be designated by the City Council shall administer and enforce this chapter. He/she may be provided with the assistance of such other persons as the council may direct. If the zoning administrator shall find that any of the provisions of this chapter are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violations and ordering the actions necessary to correct them. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

SECTION 10-210: BUILDING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor issued by the zoning administrator. No building permit shall be issued by the zoning administrator except in conformity with the provisions of this chapter, unless he/she receives a written order from the Board of Zoning Adjustment or City Council in the form of an administrative review or variance as provided by this chapter. (Ref. Neb. Rev. Stat. Sec. 17-130 through 17-132, 17-550, 17-1001)

SECTION 10-211: APPLICATION FOR BUILDING PERMIT

All applications for building permits shall be accompanied by the fees established by the City Council and by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as may be required by the zoning administrator, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter. Upon receipt of the application and fee set forth herein, the administrator shall cause the property to be viewed to ascertain that the proposed structure shall conform to the lot line setback rules as established herein. One copy of the plans shall be returned to the applicant by the zoning administrator after he/she shall have marked such copy either as approved or disapproved and attested the same by his/her signature on such copy. If a building permit is refused, the zoning administrator shall state reasons for such refusal in writing. The original and one copy of the plans, similarly marked, shall be retained by the zoning administrator. The issuance of a building permit shall in no case be construed as waiving any provisions of this chapter.

SECTION 10-212: CERTIFICATE OF ZONING COMPLIANCE FOR NEW, ALTERED OR NON-ALTERED OR NONCONFORMING USE

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning com-

pliance shall have been issued therefor by the zoning administrator stating that the proposed use of the building or land conforms to the requirements of this chapter. No non-conforming structure or use shall be maintained, renewed, changed or extended until a certificate of zoning compliance shall have been issued by the zoning administrator. No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this chapter upon completion of the work. A temporary certificate of zoning compliance may be issued by the zoning administrator for a period not to exceed six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public. The zoning administrator shall maintain a record of certificates of zoning compliance and a copy shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under this chapter.

SECTION 10-213: EXPIRATION OF BUILDING PERMIT

If the work described in the building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the zoning administrator and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two years of the date of the issuance thereof, said permit shall expire and be cancelled by the zoning administrator, and written notice thereof shall be given to the persons affected together with notice that further work as described in the cancelled permit shall not proceed unless or until a new building permit has been obtained.

SECTION 10-214: CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by this chapter.

SECTION 10-215: SCHEDULE OF FEES, CHARGES AND EXPENSES

A schedule of fees, charges and expenses shall be established, from time to time, by resolution of the City Council and shall be posted in the office of the zoning administrator, to be available for public inspection during normal business hours. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION 10-216: INSPECTION OF THE PREMISES; DEPOSIT

A. The city water and sewer utility superintendent and electrical superintendent shall inspect all buildings requiring a building permit to ascertain that the buildings, water, sewer and electrical installations conform to the City's adopted building codes. Such inspections shall be conducted before the final connections are made to the City's utilities systems. In the event that such inspections reveal deficiencies in construction which could create a hazard to the applicant, other utility users or utility employees, the utilities or

electrical superintendent, as the case may be, shall refuse to permit the applicant to connect to the City's utilities system and shall so notify the applicant in writing of the deficiency. Upon correction of the noted deficiency, the final hookup to the City's utilities shall be completed.

B. An inspection deposit shall be paid by all applicants for a city building permit. Such deposit shall be in the amount established by the City Council by resolution and shall be refundable to the applicant. The city clerk-treasurer shall maintain such deposit and shall refund the same to each building permit applicant upon completion of the inspections required above. In the event that such deposit is not claimed by the applicant within a period of 30 months from the time such deposit is paid, the same shall be forfeited to the City and the city clerk-treasurer shall deposit the same in the general fund of the City.

SECTION 10-217: NEW BUILDINGS ON UNAPPROVED STREETS

No building permit shall be issued or no building shall be erected on any lot within the jurisdiction of this ordinance unless the street giving access to the lot upon which said building is proposed to be placed shall be accepted or opened as, or shall have otherwise received the legal status of, a public street prior to that time.

SECTION 10-218: AMENDMENT; GENERAL

The City Council may from time to time supplement, change or generally revise the boundaries or regulations contained in this chapter by amendment. A proposal for such amendment may be initiated by the Planning Commission or upon application of the owner of the property affected. (Am. by Ord. No. 409, 5/14/02)

SECTION 10-219: AMENDMENT; SUBMISSION TO PLANNING COMMISSION

All proposed amendments to these rules and regulations shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of the proceedings and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district. In addition to the publication of the notice prescribed above, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall be not less than 18 inches in height and 24 inches in width and shall be placed upon the premises so that it is easily visible from the street. If such proposed amendment is not a general revision of an existing provision of this chapter and will affect specific property, it shall be designated by legal description and general street location and, in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of land located within 300 feet of the area proposed to be altered and an opportunity granted to interested parties to be heard. Failure to receive such notice shall not invalidate any subsequent action taken. Such notice is sufficient to permit the Planning Commission to recommend amendments to regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice; provided that recommending a zoning classification of lesser change than that set forth in the notice shall not be valid without re-publication and, where necessary, re-mailing.

SECTION 10-220: AMENDMENT; CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the zoning ordinance except as hereinbefore or hereinafter modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half of all members. A vote either for or against the amendment by a majority of commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend. When the commission submits a recommendation of approval or disapproval of such amendment, the City Council, if it approves such recommendation, may either adopt such recommendation by ordinance or take no further action thereon as appropriate. In the event the commission submits a failure to recommend, the council may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the City Council disapproves, the council shall return such recommendation to the commission with a statement specifying the basis for disapproval; and such recommendation shall be considered in like manner as that required for the original recommendations returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the ordinance shall define the change or the boundary as amended, shall order the official zoning map to be changed to reflect such amendment, amending the section of this chapter incorporating the same, and shall reincorporate such map as amended.

SECTION 10-221: PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the city clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of 20% or more of any real property proposed to be rezoned or by the owners of 20% of the total area, excepting public streets and ways located within or without the corporate limits of the City and located within 300 feet of the boundaries of the property proposed to be rezoned, the ordinance adopting such amendment shall not be passed except by at least three-fourths vote of all members of the City Council.

SECTION 10-222: COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the zoning administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

SECTION 10-223: PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which such violation shall exist shall be guilty of violation of these regulations and shall be fined in a sum of not more than \$500.00.. Each and every day that such violation continues after notification shall constitute a separate offense. Any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 10-224: REMEDIES

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

Article 3 – Planning Commission

SECTION 10-301: CREATION, TERMS, MEETINGS, RULES

A. The City Council shall appoint the Planning Commission, which shall consist of five members who shall be residents of the City. No member of the council or other city official, except where otherwise specifically provided, shall serve as a member of the Planning Commission while serving any other term of office. The members of the commission shall serve a three-year term of office unless reappointed. Commission members shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the council and conditioned upon the faithful performance of their duties. The Planning Commission shall be funded by the City Council from time to time out of the general fund.

B. At the time of the commission's first meeting in June of each year, it shall organize by selecting from its membership a chairman and a secretary. No member of the Planning Commission shall serve in the capacity of both chairman and secretary of the commission. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk where they shall be available for public inspection at any reasonable time. A majority of the commission shall constitute a quorum for the purpose of doing business. Special meetings may be held upon the call of the chairman or any three members of the commission.

C. It shall be the duty of the commission to make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of the City. All actions by the commission shall be subject to the review and supervision of the City Council. The commission shall be responsible for making such reports and performing such other duties as the council may, from time to time, designate.

(Ref. Neb. Rev. Stat. Sec. 19-925 through 19-929)

Article 4 – Transitional Agriculture District

SECTION 10-401: INTENT

This district is intended to provide for the agricultural use of land while recognizing that the district has the capability in terms of land and accessibility to facilities, services and utilities to accommodate low intensity residential development of the land due to the close proximity of urban or significantly built-up areas. The district regulations are intended to provide for the orderly transition of land conversion from agricultural to residential uses through the process of special variances procedures.

SECTION 10-402: PERMITTED PRINCIPAL USES AND STRUCTURES

The following shall be permitted as uses by right:

- A. Any form of agriculture, including the raising of crops, horticultural, animal or poultry husbandry; but excluding commercial auction yards and barns and commercial feed lots;
- B. Bulk grain storage, both publicly and privately owned or managed;
- C. Irrigation and flood control projects;
- D. One-family residences;
- E. Multi-family residences;
- F. Placement of advertising signs.

SECTION 10-403: PERMITTED ACCESSORY USES AND STRUCTURES

The following uses and structures shall be permitted:

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as variances;
- B. One-family residences, including mobile homes for farm residences or adjacent to farm residences for relatives of consanguinity and marriage or farm workers;
- C. Home occupations and professional offices;
- D. One-family residential subdivisions;
- E. Nursing homes;
- F. Public and private open recreational facilities, operated for profit or otherwise, including golf courses, country clubs and appurtenant pro shops, restaurants and liquor sales subject to local ordinances, golf driving ranges, archery ranges, swimming pools, riding academies, commercial stables, parks, community centers, but not including enclosed uses such as bowling alleys;
- G. Public utility and public service structures including electric transmission lines and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks and reservoirs;
- H. Public and quasi-public uses of an educational or religious type, including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools; private non-profit schools and colleges, churches, parsonages and other religious institutions;
- I. Public and private charitable institutions, hospitals, assisted living facilities and nursing homes;
- J. Public uses of an administrative, recreational, public service or cultural type

including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;

K. Private noncommercial clubs and lodges;

L. Mobile home parks in accordance with the regulations provided herein;

M. The storage and sale of agricultural equipment;

N. Light industry, provided, however, that before light industry is conducted with the City, an application shall be made to the zoning administrator, which application shall have attached thereto the consent of the immediate adjacent property owners and 75% of all resident property owners within a radius of 150 feet of such proposed light industrial business. Upon the filing of such application with the required consents, the zoning administrator shall determine the validity of the application and the consents, and if all other provisions of the zoning regulations have been complied with, issue a light industry permit.

SECTION 10-404: CONDITIONS FOR GRANTING VARIANCES

Notwithstanding the requirements of this chapter, the following regulations shall apply as minimum requirements for granting variances in AGT Transitional Agricultural District:

A. No residential structure other than that of the owner, operator or employee shall be located within 2,500 feet of an existing feedlot.

B. All one-family residential subdivisions and mobile home parks shall be provided with common water distribution and common sewage collection and treatment systems which meet the minimum requirements of the Nebraska Department of Health and Environmental Control.

SECTION 10-405: PROHIBITED USES AND STRUCTURES

All other uses and structures which are not specifically permitted or not permissible as variances shall be prohibited from the AGT Transitional Agricultural District.

SECTION 10-406: MINIMUM LOT REQUIREMENTS

A. The minimum lot area for one-family and multi-family residences which are not provided with common water and sewage systems shall be one acre. The minimum lot area for one-family and multi-family residences which are provided with common water and sewage systems shall be 12,000 square feet;

B. The minimum lot area for uses prescribed as variances shall be five acres, subject to the approval of the Board of Zoning Adjustment;

C. The minimum lot width at the front building line shall be 80 feet for lots which are provided with common water and sewer systems and 100 feet for lots which are not provided with common water and sewage systems.

SECTION 10-407: MINIMUM YARD REQUIREMENTS

A. *Front yard:* There shall be a minimum front yard of not less than a depth of 100

feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or 35 feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of 55 feet from the center line of the street or highway or 25 feet from the property line, whichever is greater, and further, these yard requirements shall apply to any yard abutting a Federal-Aid Primary or Federal-Aid Secondary designated street or highway regardless of the lot being an interior or corner lot.

B. *Rear yard*: There shall be a minimum yard of not less than a depth of 25 feet.

C. *Side yard*: Side yards shall not be less than 10 feet for lots provided with common water and sewer systems or 15 feet for lots which are not provided with common water and sewer systems.

D. *Distance between structures*: The minimum distance between principal structures used for human habitation and which are not served by common water and sewer systems shall be 90 feet.

SECTION 10-408: MAXIMUM LOT COVERAGE

The maximum lot coverage shall not exceed 30% of the total lot area.

SECTION 10-409: MAXIMUM HEIGHT

The height of all structures shall not exceed 35 feet subject to the provisions of other sections of this chapter.

Article 5 – Residential High Density District

SECTION 10-501: INTENT

This district is intended primarily to provide living areas within the City where development is limited to high density concentrations of one-family dwellings where regulations are designed to accomplish the following: To promote and encourage a suitable environment for family life; to provide space for community facilities needed to complement urban residential areas and for institutions which require a residential environment; to minimize traffic congestion and to avoid the overloading of utilities and public facilities designed to service only one-family residential uses in accord with standards of the comprehensive plan.

SECTION 10-502: PERMITTED PRINCIPAL USES AND STRUCTURES

The following shall be permitted as uses by right:

- A. Horticultural uses and the raising of crops;
- B. Single-family dwellings.
- C. Multi-family dwellings.

SECTION 10-503: PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted:

A. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as variances;

B. Home occupations and home professional offices, except barber and beauty shops;

C. Mobile homes under prescribed conditions of this chapter;

D. Storage of non-volatile merchandise of a commercial nature in non-residential structures so long as the structure is completely enclosed and constructed at the time of application. No new structures shall be permitted for storage purposes in the Residential High Density District and no sales or installation of merchandise shall be permitted in the Residential High Density District;

E. Light industry, provided, however, that before light industry is conducted within the City, an application shall be made to the zoning administrator, which application shall have attached thereto the consent of the immediate adjacent property owners and 75% of all resident property owners within a radius of 150 feet of such proposed light industry business. Upon the filing of such application with the required consents, the zoning administrator shall determine the validity of the application and the consents and, if all other provisions of the zoning regulations have been complied with, issue a light industry permit.

SECTION 10-504: VARIANCES

After the provisions of this chapter relating to variances have been fulfilled, the Board of Zoning Adjustment may permit the following conditional uses as variances in the Residential High Density District:

A. Public and quasi-public uses of an educational, recreational or religious type, including public and parochial elementary schools, junior high schools, high schools and colleges, nursery schools; private, non-private institutions, public parks, public playgrounds;

B. Public and private charitable institutions;

C. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;

D. Cemeteries;

E. Electrical distribution substations, gas regulation stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;

F. Home occupation barber and beauty shops;

G. Convalescent, assisted living facilities and nursing homes;

H. Hospitals, medical and dental clinics and other medical and health facilities;

I. Professional offices;

J. Funeral homes and funeral chapels;

- K. Hotels and motels;
- L. Mobile home parks, subject to city ordinance;
- M. Signs subject to city ordinance.

SECTION 10-505: CONDITIONS FOR GRANTING VARIANCES

The requirements of this chapter shall apply as minimum requirements for granting variances in the Residential High Density District.

SECTION 10-506: PROHIBITED USES AND STRUCTURES

All other uses and structures which are not specifically permitted or not permissible as variances shall be prohibited from the Residential High Density District.

SECTION 10-507: MINIMUM LOT REQUIREMENTS

A. The minimum lot area for single-family dwellings shall be 6,000 square feet; the minimum lot area for multiple-family dwellings shall be 8,000 square feet and the minimum lot area per dwelling unit shall be 4,000 square feet;

B. Each lot shall have not less than 60 feet of frontage or 40 feet when a lot fronts on a cul-de-sac or loop street where there are curbs and gutters and not less than 60 feet where there are no curbs and gutters;

C. The minimum width of each lot shall be 60 feet;

D. Each lot shall have a depth of not less than 80 feet.

SECTION 10-508: MINIMUM YARD REQUIREMENTS

A. *Front yard:* There shall be a minimum front yard of not less than a depth of 100 feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or 35 feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of 20 feet from the property line. These yard requirements shall apply to any yard abutting a Federal Aid-Primary or Federal Aid-Secondary designated street or highway regardless of the lot being an interior or corner lot.

B. *Rear yard:* The minimum rear yard of a principal structure shall be 25 feet; provided, however, that where construction involves more than one story, the rear yard shall be increased by 10 feet for each additional story;

C. *Side yards:* The minimum side yards of a principal structure shall be ten feet; provided that where construction involves more than one story, the side yard shall be increased by 10 feet for each additional story. Notwithstanding the above, in the event that an existing accessory use building or principal structure is constructed closer than five feet to the existing lot line or ten feet from the existing building, the owner of said existing structure may extend said building toward the front yard and rear yard so long as said addition does not encroach closer to the side lot line than the old structure and so long as he/she conforms with the rear yard and front yard setback requirements.

SECTION 10-509: MAXIMUM COVERAGE

The maximum lot coverage shall not exceed 40% of the total lot area.

SECTION 10-510: MAXIMUM HEIGHT

The height of all structures, other than accessory buildings, shall not exceed 35 feet.

SECTION 10-511: YARD LOT REQUIREMENTS FOR ACCESSORY USE BUILDINGS

A. *Front yard:* No accessory use building shall be constructed closer to the front property line than the principal structure or 35 feet from the front property line, whichever is less.

B. *Rear yard:* No accessory use building shall be constructed closer than three feet to the rear lot line or ten feet from any accessory use building or principal structure which is located on the adjacent rear property.

C. *Side yard:* No accessory use building shall be constructed closer than five feet to the side lot line or ten feet from any accessory use building or principal structure located on the adjacent side property.

D. No detached accessory building or structure shall exceed 15 feet in height at its highest point or the height of the adjacent principal structure if the principal structure is less than 15 feet at its highest point.

E. Accessory buildings having a floor space of more than 100 square feet may be covered with colored metal roof and siding so long as it is compatible to the existing residential structure. Non-colored galvanized metal siding and roofing is not allowed.

F. Accessory buildings shall not exceed 10% of the total area owned by the applicant for the location on which the accessory building shall be built.

G. Buildings larger than 100 square feet shall have compatible and comparable overhang as the principal structure or no less than 12 inches.

H. Buildings larger than 100 square feet shall have a minimum of 4/12 pitched roof.
(Am. by Ord. No. 461, 9/12/06)

Article 6 – Central Business District (Urban)

SECTION 10-601: INTENT

The intent of the Central Business District is to provide a commercial area for those establishments serving the general shopping needs of the trade area. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities.

SECTION 10-602: PERMITTED PRINCIPAL USES AND STRUCTURES

The following shall be permitted as uses by right:

A. Business offices;

B. Professional offices;

C. Retail stores and service establishments which supply commodities or provide services primarily to meet the needs of residents of the community, including:

1. Apparel stores
2. Art and antique stores
3. Art and craft schools and colleges
4. Art galleries
5. Artists' supply stores
6. Auction rooms
7. Automobile, farm implement and motorcycle salesrooms
8. Automobile and farm implement parts sales (new)
9. Automobile supply stores
10. Bakery goods stores (retail)
11. Banks, including drive-in banks, and other lending agencies
12. Barbershops and beauty shops
13. Bars, cocktail lounges and nightclubs
14. Bicycle shops
15. Billiard and pool halls
16. Blueprint and photostat shops
17. Boat sales and service
18. Bookstores and rental libraries
19. Bowling alleys
20. Bus depots and transit stations; provided that buses and other transit vehicles shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site
21. Business, professional and trade schools and colleges
22. Cafeterias
23. Camera and photographic supply shops
24. Candy, nut and confectionery stores
25. Catering shops
26. Christmas tree sales lots
27. Cleaning and laundry agencies (no cleaning or laundering done on the premises)
28. Clinics
29. Clothing and costume rental establishments
30. Communications equipment buildings
31. Dairy products stores
32. Dance halls
33. Department stores
34. Drug stores
35. Dry goods stores
36. Egg and poultry stores (no slaughtering, eviscerating or plucking)
37. Electrical appliances and incidental repair shops
38. Employment agencies
39. Exterminators
40. Feed and seed stores (sales and storage confined within an enclosed structure)
41. Fire and police stations
42. Florists
43. Food lockers

44. Food stores, delicatessens and supermarkets
45. Furniture stores
46. Furniture warehouse and van services
47. Garden shops
48. Garden supply stores and nurseries; provided that all equipment, supplies, merchandise and plants shall be kept within a completely enclosed building, and provided that fertilizer of any type shall be stored and sold in packaged form only
49. Gift, novelty and souvenir shops
50. Gunsmith shops
51. Hand laundries
52. Hardware stores
53. Hobby and art supply stores
54. Home furnishings stores
55. Hotels, motels and apartment hotels
56. Household appliance and repair shops
57. Interior decorating shops
58. Jewelry stores, including clock and watch repair
59. Leather goods and luggage stores
60. Libraries
61. Liquor stores
62. Locksmiths
63. Massage and physical culture studios
64. Medical and orthopedic appliance stores
65. Meeting halls
66. Messenger offices
67. Millinery shops
68. Mortuaries
69. Music stores
70. Music and dance studios
71. Newsstands and magazine stores
72. Office and business machine stores
73. Offices and office buildings, other than professional and administrative offices
74. Optician and optometrist offices
75. Paint and wallpaper stores
76. Parcel delivery services
77. Parking lots and garages
78. Pet and bird shops
79. Photography studios
80. Picture framing shops
81. Plumbing, heating and ventilating equipment showrooms with storage of floor samples only
82. Post offices
83. Pressing, alteration and repair of wearing apparel establishments
84. Printing shops
85. Radio and television broadcasting studios
86. Radio and television stores and repair shops
87. Reading rooms
88. Restaurants, tearooms and cafes, including drive-in restaurants and outdoor cafes
89. Scientific instrument stores
90. Secondhand stores and pawnshops
91. Secretarial services and letter shops

92. Self-service laundries and cleaning establishments
93. Shoe repair shops
94. Shoe stores
95. Shooting galleries
96. Sign painting shops
97. Signs and outdoor advertising structures in accordance with provisions of this chapter
98. Skating rinks
99. Soda fountains
100. Sporting goods stores, including incidental boat sales
101. Sports areas within buildings
102. Stamp and coin stores
103. Stationery stores
104. Storage garages
105. Tailor and dressmaking shops
106. Taxidermists
107. Telephone answering services
108. Theaters and auditoriums
109. Tobacco stores
110. Toy stores
111. Travel bureaus
112. Upholstery shops
113. Utility pumping stations
114. Variety stores
115. Walk-in food dispensaries (only where outdoor benches, tables and trash receptacles are provided)
116. Wedding chapels

SECTION 10-603: PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted:

A. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as variances;

B. A one-family dwelling over or to the rear of a permitted use; provided that such dwelling is primarily for the use of the person owning or operating the commercial use on the site;

C. Multi-family residential uses;

D. Light industry; provided, however, that before light industry is conducted within the City, an application shall be made to the zoning administrator, which application shall have attached thereto the consent of the immediate adjacent property owners and 75% of all resident property owners within a radius of 150 feet of such proposed light industry business. Upon the filing of such application with the required consents, the zoning administrator shall determine the validity of the application and the consents, and if all other provisions of the zoning regulations have been complied with, issue a light industry permit;

E. Placement of advertising signs.

SECTION 10-604: VARIANCES

After the provisions of this chapter relating to variances have been fulfilled, the Board of Zoning Adjustment may permit the following conditional uses as variances in the Central Business District:

A. Service stations (gasoline), excluding automotive repair services not included in the definition of service station as provided by this chapter; provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides;

B. Electrical distribution substations and gas regulator stations;

C. Churches and other religious institutions;

D. Public parks;

E. Private clubs and lodges;

F. Public buildings and grounds;

G. Tattoo and body piercing establishments (Ord. No. 500, 7/14/09)

H. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district.

SECTION 10-605: SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING VARIANCES

Notwithstanding the requirements of this chapter, the following regulations shall apply as minimum requirements for all uses in the Central Business District:

A. Where a site adjoins or is located across an alley from any Residential District, a solid wall or fence, vine-covered open fence or compact evergreen hedge six feet in height shall be located on the property line common to such districts, except in a required front yard.

B. Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six feet in height; provided that no materials or equipment shall be stored at a height greater than that of the wall or fence.

C. All businesses, services and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and off-street loading areas, gasoline service stations, outdoor dining areas, nurseries, garden shops, Christmas tree sales lots, bus depot and transit stations, electric distribution substations, automobile sales and trailer house sales.

D. No use shall be permitted and no process, equipment or materials shall be used which are found by the Board of Adjustment to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare or unsightliness or to involve any hazard of fire explosion.

SECTION 10-606: PROHIBITED USES AND STRUCTURES

All other uses and structures which are not specifically permitted or not permissible as variances shall be prohibited from the Central Business District.

SECTION 10-607: MINIMUM LOT REQUIREMENTS

There is no limitation.

SECTION 10-608: MINIMUM YARD REQUIREMENTS

A. *Front yard:* No limitations; provided that where a lot is abutting on property in any Residential District and fronting on the same street, there shall be a minimum front yard of 10 feet.

B. *Rear yard:* The minimum rear yard abutting a Residential District shall be ten feet.

C. *Side yard:* The minimum side yard abutting a Residential District shall be ten feet.

D. *Distance between structures:* The minimum distances between a residential or other principal structure and another structure shall be ten feet.

SECTION 10-609: MAXIMUM LOT COVERAGE

There is no limitation.

SECTION 10-610: MAXIMUM HEIGHT

No structure shall exceed 75 feet.

Article 7 – Business Commercial Service District

SECTION 10-701: INTENT

The Commercial Service District is intended primarily for establishments engaged in servicing equipment, materials and products. Land requirements for most commercial service uses generally dictate its application along major streets of the City which generally lie close to highway commercial and industrial districts.

SECTION 10-702: PERMITTED PRINCIPAL USES AND STRUCTURES

The following shall be permitted as uses by right:

- A. Commercial service establishments including:
1. Automobile body and fender repair
 2. Automobile repairing, overhauling, rebuilding and painting
 3. Automobile sales and service
 4. Automobile supply stores
 5. Automobile and tractor parts and equipment stores

6. Automobile upholstery and top shops
7. Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaning
8. Bakeries, retail and wholesale
9. Bicycle shops
10. Blacksmith shops
11. Blueprint and photostat shops
12. Boat sales and service
13. Bookbinding
14. Bottling works
15. Building materials yards
16. Bus depots and transit stations, including repair and storage
17. Business, professional and trade schools and colleges
18. Cabinet shops
19. Carpenter shops
20. Carpet and rug cleaning and dyeing establishments
21. Catering shops
22. Christmas tree sales lots
23. Cleaning, pressing and dyeing establishments (using nonflammable and nonexplosive cleaning fluid)
24. Cold storage plants
25. Columbariums and crematoriums
26. Communications equipment buildings
27. Contractors' storage yards
28. Dairy products plants
29. Diaper supply services
30. Electrical distribution substations
31. Electrical repair shops
32. Elevated pressure tanks
33. Equipment rental yards
34. Exterminators
35. Feed and seed stores
36. Food lockers and services
37. Freight forwarding terminals
38. Freight transit yards
39. Furniture warehouse and van services
40. Gas regulator stations
41. Glass shops
42. Gunsmith shops
43. Heating and ventilating or air conditioning shops, including incidental sheet metal
44. Hospitals, medical and dental clinics and other medical and health facilities
45. Hotels and motels
46. Household and office equipment and machinery repair shops
47. Household repair shops
48. Ice storage or sale houses
49. Kennels located not closer than 500 feet to a Residential District
50. Laboratories
51. Laundries
52. Linen supply services
53. Locksmiths
54. Lumberyards, not including planeing mills or sawmills, bulk sand, gravel or cement
55. Machine shops

56. Machinery sales and rentals
57. Mattress repair shops
58. Mortuaries
59. Motorcycle sales and service
60. Multi-family Dwellings
61. Musical instrument repair shops
62. Nurseries and garden supply stores
63. Professional Offices
64. Packing and crating
65. Parcel delivery services
66. Photographic and blueprint processing and printing
67. Picture framing shops
68. Plumbing and sheet metal shops
69. Poultry and rabbit butcher shops for retail sale on the premises (including live storage); provided that such uses shall not be established closer than 500 feet to any Residential District
70. Pressing establishments
71. Professional offices
72. Printing, lithographing and engraving services
73. Public service pumping stations
74. Public utility yards
75. Radio and television broadcasting studios
76. Radio and television repair shops
77. Railroad rights-of-way and freight and passenger stations
78. Refrigeration equipment sales and service
79. Repair garages
80. Restaurants, including drive-in restaurants
81. Retail Businesses
82. Rug and carpet cleaning and dyeing
83. Safe and vault repairing
84. Self-service laundries and cleaning establishments
85. Service stations (gasoline), including dispensing of diesel fuel and complete truck service
86. Sheet metal shops
87. Shoe repair shops
88. Signs and outdoor advertising structures in accordance with the provisions of this chapter
89. Sign painting shops
90. Small animal boarding located not closer than 500 feet to a Residential District
91. Small animal hospitals or clinics and veterinarians' offices located not closer than 500 feet to a Residential District, including short term boarding of animals and incidental care such as bathing and trimming; provided that all operations are conducted entirely within a completely enclosed structure
92. Stone and monument yards or mills
93. Storage garages
94. Storage yards for commercial vehicles
95. Taxidermists
96. Tire sales, retreading and recapping
97. Tool or cutlery sharpening or grinding services
98. Trailer sales and service and rentals
99. Trucking terminals
100. Typewriter repair shops
101. Upholstery shops

- 102. Used car sales
- 100. Warehouses, except for the storage of fuel or flammable liquids and explosives
- 101. Welding and blacksmithing shops, excepting drop hammer
- 102. Wholesale establishments

B. Personal residences and multi-family residences may be constructed in this district as a matter of right so long as the same conform to all the regulations and requirements set forth in the High Density Residential District.

C. Motor vehicle dismantling or wrecking; provided that all dismantling shall be conducted within an enclosed building and that no burning of any portion of a motor vehicle is done on the site, and that the total site area does not exceed 10,000 square feet in area.

SECTION 10-703: PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted:

A. Accessory uses and structures normally appurtenant to the permitted uses and structures, and uses and structures permitted as variances;

B. Light industry, provided, however, that before light industry is conducted within the City, an application shall be made to the zoning administrator, which application shall have attached thereto the consent of the immediate adjacent property owners and 75% of all resident property owners within a radius of 150 feet of such proposed light industry business. Upon the filing of such application with the required consents, the zoning administrator shall determine the validity of the application and the consents and if all other provisions of the zoning regulations have been complied with, issue a light industry permit.

C. Placement of advertising signs.

SECTION 10-704: VARIANCES

After the provisions of this chapter relating to variances have been fulfilled, the Board of Zoning Adjustment may permit the following conditional uses as variances in the Commercial Service District:

- A. Below ground storage of chemicals, gas, petroleum or flammable liquids.
- B. Public buildings and grounds.
- C. All uses permitted as uses by right in the Light Industrial District of this chapter.

SECTION 10-705: SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING VARIANCES

Notwithstanding the requirements of this chapter, the following regulations shall apply as minimum requirements for all uses in the Commercial Service District:

A. Where a site adjoins or is located across an alley from any Residential District, a solid wall or fence, vine-covered open fence or compact evergreen hedge six feet in height shall be located on the property line common to such districts, except in a required front yard. Such fence provisions, however, shall not apply to Professional offices nor shall they apply if the consent of the immediate adjacent property owners and 75% of all

resident property owners within a radius of 150 feet of such Business commercial Service District is filed with the zoning administrator.

B. No use shall be permitted and no process, equipment or materials shall be used which are found by the Board of Adjustment to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare or unsightliness or to involve any hazard of fire explosion.

C. All uses shall meet or exceed the performance standards set forth in this chapter.

SECTION 10-706: PROHIBITED USES AND STRUCTURES

All other uses and structures which are not specifically permitted or not permissible as variances shall be prohibited from the Commercial Service District.

SECTION 10-707: MINIMUM LOT REQUIREMENTS

There is no limitation.

SECTION 10-708: MINIMUM YARD REQUIREMENTS

A. *Front yard:* There shall be a front yard of not less than a depth of five feet; provided that where a lot is abutting on property in any Residential District and fronting on the same street, there shall be a minimum front yard of 20 feet. (Am. Ord. No. 438, 10/12/04)

B. *Rear yard:* The minimum rear yard abutting a Residential District shall be ten feet.

C. *Side yard:* The minimum side yard abutting a Residential District shall be ten feet.

D. *Distance between structures:* The minimum distances between a residential or other principal structure and another structure shall be ten feet.

SECTION 10-709: MAXIMUM LOT COVERAGE

There is no limitation.

SECTION 10-710: MAXIMUM HEIGHT

No structure shall exceed 75 feet.

Article 8 – Light Industrial and Manufacturing District

SECTION 10-801: INTENT

The intent of this district is to provide space for certain commercial and a wide range of industrial uses and structures to protect nearby noncommercial and nonindustrial uses from undesirable environmental conditions. Residential and other similar uses are pro-

hibited from this district in order to limit environmental effects associated with certain commercial and industrial uses, irrespective of their meeting performance standards.

SECTION 10-802: PERMITTED PRINCIPAL USES AND STRUCTURES

The following shall be permitted as uses by right:

- A. Wholesale, storage and warehouse uses;
- B. Signs;
- C. Agricultural uses;
- D. Automobile service stations;
- E. Manufacturing of any kind, item or material.
- F. Retail stores and businesses.

SECTION 10-803: PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted:

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures, and uses and structures permitted as variances;
- B. Medical facilities.

SECTION 10-804: VARIANCES

After the provisions of this chapter relating to variances have been fulfilled, the Board of Adjustment may permit as variances any use which is consistent with the intent of this district and which is not prohibited.

SECTION 10-805: SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING VARIANCES

Notwithstanding the requirements of this chapter, the following regulations shall apply as minimum requirements for all uses in the Light Industrial and Manufacturing District:

A. A use not conducted entirely within a complete enclosed structure on a site across a street or alley from a Residential District shall be screened by a solid wall or fence, vine-covered open fence or compact evergreen hedge not less than six feet in height, if found by the Board of Adjustment to be unsightly.

B. Where a site adjoins a Residential District, a solid wall or fence, vine covered open fence or compact evergreen hedge, six feet in height, shall be located on the property line except in a required front yard.

C. Open storage of materials and equipment shall be permitted only within an area surrounded and screened by a solid wall or fence or compact evergreen hedge with solid gates where necessary, not less than six feet in height; provided that no materials shall be stored at a height greater than that of the wall, fence or hedge.

D. Not less than five feet of a required yard adjoining a street shall be landscaped and permanently maintained.

E. All open and un-landscaped portions of any lot shall be maintained in good condition free from weeds, dust, trash and debris.

SECTION 10-806: PROHIBITED USES AND STRUCTURES

All uses prohibited in the parent district of which this district is made a part shall be prohibited.

SECTION 10-807: MINIMUM LOT REQUIREMENTS

There is no limitation.

SECTION 10-808: MINIMUM YARD REQUIREMENTS

A. *Front yard:* There shall be a minimum front yard of not less than a depth of 100 feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or 35 feet from the property line, whichever is greater. On all other streets or highways, there shall be a minimum front yard of not less than a depth of 15 feet from the property line where there are curbs and gutters and 30 feet from the property line where there are no curbs and gutters; provided that where a lot is abutting on property in any Residential District and fronting on the same street, there shall be a minimum front yard of 20 feet. These yard requirements shall apply to any yard abutting a Federal Aid-Primary or Federal Aid-Secondary designated street or highway, regardless of the lot being an interior or corner lot.

B. *Rear yard:* The minimum rear yard abutting a Residential District shall be 25 feet. When abutting a Light Industry or Manufacturing district the distance shall be 10 feet.

C. *Side yard:* The minimum side yard abutting a Residential District shall be 25 feet. When abutting a Light Industry or Manufacturing district the distance shall be 10 feet.

SECTION 10-809: MAXIMUM LOT COVERAGE

There is no limitation.

SECTION 10-810: MAXIMUM HEIGHT

No structure shall exceed 75 feet.

SECTION 10-811: PERFORMANCE STANDARDS

The performance standards for those industries located in the Light Industrial and Manufacturing District and the Heavy Industrial and Manufacturing District shall be those minimum standards as established by the federal and state pollution control acts and environmental control acts and as the same may be established in the future by the federal and state governments.

Article 9 – Floodplain District

SECTION 10-901: INTENT

This district is intended for application in those areas which have been defined by the Nebraska Department of Natural Resources as being Commission Floodways or which by reason of historical documentation and other data have been defined by the Planning

Commission as being flood hazard areas. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof; to minimize the hazard of loss of lives and property caused by floods; and to secure safety from floods through the confinement of floods through reasonable limits by regulating and restricting areas of development along or in natural watercourses and drain ways. This district is created to be appended to any district which is subject to periodic flooding, but excluding the Select Floodway District.

SECTION 10-902: PERMITTED PRINCIPAL USES AND STRUCTURES

Any permitted principal use and structure in the parent district to which this district is made a part is also permitted in the Floodplain District; provided that such uses and structures meet the minimum requirements of this chapter.

SECTION 10-903: PERMITTED ACCESSORY USES AND STRUCTURES

Any permitted accessory use and structure in the parent district to which this district is made a part is also permitted in the Floodplain District; provided that such uses and structures meet the minimum requirements of this chapter.

SECTION 10-904: VARIANCES

After the provisions of this chapter relating to variances have been fulfilled, the Board of Zoning Adjustment may permit all conditional uses permitted as variances in the parent district of which this district is made a part.

SECTION 10-905: SPECIAL CONDITIONS; AND CONDITIONS FOR GRANTING VARIANCES

Notwithstanding the requirements of this chapter, the following regulations shall supplement the special conditions and/or conditions for granting variances which are provided in the parent district of which this district is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations:

A. Where, by reason of flooding potential, the zoning administrator determines that there are detrimental or limiting conditions for development or where there is a possibility of detrimental or limiting conditions for development, the zoning administrator shall require such person making application for a building permit to provide four copies of the following to the Board of Zoning Adjustment:

1. A site plan at an appropriate scale indicating the name and address of the applicant; lot dimensions and legal description of the property; the location, elevation, size, height and proposed use of all structures; yards and space between structures; off-street parking; location of public streets and highways and point of pedestrian and vehicular ingress and egress; signs; areas which will require significant land forming;
2. Topographic information, providing the elevations of the site above mean sea level, the proposed first floor elevations of all principal structures and accessory structures, and all specifications for grading and fill.

B. The zoning administrator shall transmit one copy of all required documentation to the Natural Resources District for review and comment. Such review and comment, if any, shall be made a part of the record of the Board of Zoning Adjustment.

C. As conditions for granting a building permit, the board may require specific measures which are intended to minimize the hazard due to flooding and which shall include the following:

1. The first floor of buildings or structures shall be placed two feet above the elevations of the 100-year flood;
2. Foundations of all structures shall be designed and constructed to withstand flood conditions at the proposed construction site;
3. Basements, lower floors or appurtenances located below the elevation of the 100-year flood shall be designed and constructed to prevent passage of water into the building or structure and to withstand flood conditions, including hydrostatic pressures of elevated water tables and the momentum of flood flows. Materials for construction shall be of a type not deteriorated appreciably by water. Windows, doorways and other openings into the building or structure that are located below the elevation of the 100-year flood shall be designed and constructed incorporating adequate flood proofing;
4. All electrical equipment, circuits and installed electrical appliances shall be located so as not to be subject to flooding, or shall be flood proofed to prevent damage resulting from inundation from the 100-year flood;
5. Sanitary and storm sewer drains shall be equipped with valves capable of being closed manually to automatically to prevent backup of sewage and storm waters into the building or structure. Gravity draining of basements may be eliminated by mechanical devices;
6. Any chemical storage, explosive buoyant and inflammable liquid storage shall be located above the 100-year flood level or shall be adequately flood proofed to prevent flotation of tanks or other appreciable damage or escape into the flood waters of toxic materials;
7. Land may be filled provided such fill extends 15 feet beyond the limits of any building or structure erected thereon.

SECTION 10-906: PROHIBITED USES AND STRUCTURES

All uses prohibited in the parent district of which this district is made a part shall be prohibited.

SECTION 10-907: MINIMUM LOT REQUIREMENTS

The lot requirements of the parent district of which this district is made a part shall be the minimum lot requirements, subject to additional requirements as prescribed by the Board of Zoning Adjustment.

SECTION 10-908: MINIMUM YARD REQUIREMENTS

The yard requirements of the parent district of which this district is made a part shall be the minimum yard requirements, subject to additional requirements as prescribed by the board.

SECTION 10-909: MAXIMUM LOT COVERAGE

The lot coverage requirements of the parent district of which this district is made a part shall be the maximum lot coverage requirements, subject to additional requirements as prescribed by the board.

SECTION 10-910: MAXIMUM HEIGHT

The height requirements of the parent district of which this district is made a part shall be the height requirements, subject to additional requirements as prescribed by the board.

Article 10 – Nonconforming Uses

SECTION 10-1001: INTENT

Within the zoning districts established by this chapter or amendments thereto, there exist lots, structures, uses of lands and structures, and characteristics of use which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the zoning districts involved. A nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the zoning district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction; provided that work shall be carried on diligently.

SECTION 10-1002: NONCONFORMING LOTS OF RECORD

In any zoning district in which single-family structures are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and requirements other than those applying to area or width, or both, shall conform to the zoning regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Adjustment. If two or more lots or combinations of lots and portions of lots with continuous frontage in single

ownership are of record and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this chapter and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

SECTION 10-1003: NONCONFORMING USES OF LAND WITH MINOR STRUCTURES ONLY

Where lawful use of land exists which would not be permitted by the zoning regulations imposed herein, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

A. If any such nonconforming use of land ceases for any reason for a period of more than one year, subsequent use of such land shall conform to the regulations specified by this chapter for the zoning district in which such land is located.

B. No additional structure not conforming to the requirements of the chapter shall be erected in connection with such nonconforming use of land.

C. No such nonconforming use shall be allowed to continue longer than a period of five years from the date of passage of this chapter. At the end of said five-year period, such nonconforming use of land or land with minor structures shall be terminated.

D. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use.

E. No such nonconforming use shall be enlarged, increased nor extended to occupy a greater area of land than is currently occupied.

SECTION 10-1004: NONCONFORMING STRUCTURES

Where a lawful structure exists that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with provisions of this chapter.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

D. Provided, however, that except for single-family and multi-family dwellings and their accessory uses, no nonconforming structure shall be allowed to continue longer than

for a reasonable amortization period of the nonconforming structure. For the purposes of this subsection, "a reasonable amortization period" shall be defined as a period of 30 years from the date of December 10, 1991. Following the running of the amortization period, such nonconforming structure shall be removed or brought into conformance.

E. Provided, however, that no nonconforming mobile home structure which is not placed on a permanent foundation at the effective date of adoption or amendment of this chapter shall be allowed to continue longer than for a reasonable amortization period of the nonconforming structure. No nonconforming mobile home structure which occupies a lot upon which there exists another principal structure shall be allowed to continue longer than for a reasonable amortization period of the nonconforming structure. For the purposes of this subsection, "a reasonable amortization period" shall be defined as a period of ten years from December 10, 1991. Following the running of the amortization period, such nonconforming structure shall be removed or otherwise brought into conformance.

SECTION 10-1005: NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATIONS

If unlawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists that would not be allowed in the zoning districts under the terms of this chapter, the unlawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the zoning district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building or area which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building or area.

C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as an exception be changed to another nonconforming use; provided that the Board of Zoning Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zoning district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zoning district and the nonconforming use may not be thereafter be resumed.

E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located.

F. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. "Destruction" for the purpose of this subsection is defined as damage to an extent of more than 50% of the replacement cost at time of destruction.

G. Provided, however, no such nonconforming use of a structure, or structure and premises in combination, shall be allowed to continue longer than a period of 30 years from December 10, 1991, or at the end of said 30-year period such nonconforming use of a structure and premises in combination shall be terminated.

SECTION 10-1006: REPAIRS AND MAINTENANCE

On any nonconforming structure or portion of a structure containing nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 25% of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, as the case may be; provided that the cubic content existing when it became nonconforming shall not be increased. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

SECTION 10-1007: USES UNDER VARIANCES OR PROVISIONS NOT NONCONFORMING USES

Any use which is permitted as a variance in a zoning district under the terms of this chapter, other than a change through an action by the Board of Zoning Adjustment from a nonconforming use to another use not generally permitted in the zoning district shall not be deemed a nonconforming use in such zoning district but shall, without action, be considered a conforming use.

Article 11 – Construction Regulations in Floodplains

SECTION 10-1101: BUILDING INSPECTOR; DUTIES

The zoning administrator hereby has these added responsibilities and is authorized and directed to enforce all the provisions of this article and all other ordinances of the City now in force or hereafter adopted relating to zoning, subdivision or building codes.

SECTION 10-1102: ACTING ENFORCEMENT OFFICIALS

The zoning administrator is granted these additional responsibilities and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the zoning administrator, the City Council shall designate an acting enforcement official.

SECTION 10-1103: FLOODPLAINS MAP

The City Council hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map and amendments as the official map to be used in determining those areas of special flood hazard.

SECTION 10-1104: PERMITS

A. Permits Required: No person, firm or corporation shall erect, construct, enlarge or improve any building or structure within Zone A in the City or cause the same to be done without first obtaining a separate development permit for each building or structure.

B. Within Zone A on the official map, separate development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

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

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by lot, block, tract and street address, or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.
6. Within designated flood-prone areas, be accompanied by elevations (in relation to mean sea level) of the lowest floor (including basement) or in the case of floodproofed nonresidential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the building inspector.
7. Give such other information as reasonably may be required by the building inspector.

SECTION 10-1105: PERMIT APPLICATION REVIEWS

The zoning administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal or state law.

SECTION 10-1106: REVIEW REQUIREMENTS

The zoning administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) will:

A. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from federal, state or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official map that the following performance standards be met:

1. Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
2. Non-residential Construction: New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrodynamics and hydrostatic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local enforcement official.
3. Require for all new construction and substantial improvements: That fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting the requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided that they permit the automatic entry and exit of floodwaters.

B. Require the use of construction materials and utility equipment that are resistant to flood damage.

C. Require the use of construction methods and practices that will minimize flood damage.

D. Require that new structures be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamics and hydrostatic loads, including the effects of buoyancy.

E. If a new structure, be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. Assure that all manufactured homes be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with state laws, local building codes, and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

1. Over-the-top ties to be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.
3. All components of the anchoring system be capable of carrying force of 4800 pounds.
4. Any additions to manufactured homes be similarly anchored.

G. Require that all manufactured homes to be placed within Zones A1-30, AH and AE be elevated on a permanent foundation such that the lowest floor of the manufactured home is one-foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 10-1106,6.

SECTION 10-1107: CITY COUNCIL REVIEW

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

A. All such proposed developments are consistent with the need to minimize flood damage.

B. Subdivision proposals and other proposed new developments, including proposals for manufactured home parks and subdivisions greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated Zone A.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All public utilities and facilities are located so as to minimize or eliminate flood damage.

SECTION 10-1108: UTILITY DISCHARGE

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

SECTION 10-1109: WATERCOURSE MAINTENANCE

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

SECTION 10-1110: AMENDMENTS

The City Council may from time to time amend this article to reflect any and all changes

in the National Flood Disaster Protection Act of 1973. The regulations of this article are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.

SECTION 10-1111: DEFINITIONS

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

"Development" shall mean any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Flood" shall mean a general temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters,
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

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

"Manufactured home" shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

"Manufactured home park or subdivision" shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Regulatory flood elevation" shall mean the water surface elevation of the 100 year flood.

"Special flood hazard area" shall mean the land within a community, subject to a 1% or greater chance of flooding in any given year. This land is identified as Zone A on the official map.

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

"Substantial improvement" shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- A. Before the improvement is started, or
- B. If the structure has been damaged and is being restored, before the damage

occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations as well as structures listed in national or state registers of historic places.

"100 year flood" shall mean the condition of flooding having a 1% chance of annual occurrence.

Article 12 – Zoning Map

SECTION 10-1201: ADOPTED BY REFERENCE

The official Zoning Map for the City of Neligh, dated November 11, 2016, is hereby adopted as the official Zoning Map of the City. All jurisdictional questions involving zoning shall hereafter be governed by the official Zoning Map and the various zones designated thereon. (Ord. No. 597, 12/13/16)