ZONING ORDINANCE

OF THE CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 2485

ADOPTED BY LEXINGTON, NEBRASKA: _____

EFFECTIVE DATE: _____

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ARTICLE 1: TITLE AND PURPOSE

Section 1.01 Title

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

Section 1.02 Purpose and Intent

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

Section 1.03 Interpretation

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

Section 1.04 Relationship to City Code

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

Section 1.05 Relationship to Comprehensive Plan

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

Section 1.06 Applicability of Prior Regulations

1.06.01 All violations of prior zoning or other regulations of the City, existing on the effective date of this Ordinance, shall continue to be violations and shall not be considered to be legal non-conforming situations under this Ordinance. The City shall have the same authority to secure civil remedies for violations of those regulations to the same extent that it may secure civil remedies for violations of this Ordinance.

1.06.02 All permits, applications, certificates and other authorizations submitted or approved prior to the effective date of this Code shall be governed by the regulations in effect at the time of the submission or approval.

ARTICLE 2: DEFINITIONS

Section 2.01 Rules
For the purpose of this ordinance the following rules shall apply:

2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.

2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.

2.01.03 The word "shall" is mandatory and not discretionary; the word "may" is permissive and not compulsory.

2.01.04 The word "and" indicates all connected items, conditions, provisions, or events shall apply; the word "or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.

2.01.05 Words importing the masculine gender shall include the feminine and neutral genders.

2.01.06 The words "use," "used," "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.

2.01.07 The word "commission" shall refer to the Planning Commission of Lexington, Nebraska.

2.01.08 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

2.01.09 The particular controls the general.

2.01.10 All references to City personnel or staff shall include the person identified or their appropriate designee.

2.01.11 All words, terms, and phrases not otherwise defined herein shall be given their usual and customary meaning as defined in a standard English dictionary or other applicable City, State, or Federal regulation, unless the context clearly indicates another meaning was intended.

2.01.12 Computation of Time: Unless otherwise specifically provided, the time within which an act is to be completed shall be computed by excluding the first day and including the last day, unless it is Sunday or a City holiday. All acts shall be completed within the time frame specified subject to extension periods provided herein.

Section 2.02 Definitions
For the purpose of this Ordinance, certain words and terms are hereby defined as follows:

2.02.01 **A**

ABANDONMENT shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

ABUT or ABUTTING shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.

ACCESS or ACCESS WAY shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this ordinance.

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

ACCESSORY LIVING QUARTERS shall mean living quarters located within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

ACCESSORY STRUCTURE shall mean a detached subordinate (in size and use) structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

Example of an Accessory Use

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

ACRE shall mean a full acre containing 43,560 square feet of area within the property lines of a lot or parcel.

ADJACENT shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent."

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

ADULT ENTERTAINMENT ESTABLISHMENT shall mean any business which offers its patrons services, products or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, adult internet industries, adult massage parlor/health club, and adult body painting studios.

ADVERTISING STRUCTURE shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES shall mean any building or structure necessary or incidental to the normal conduct of an agricultural operation including but not limited to residence of the operator, residence of employees, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

AGRICULTURAL FARM OR OPERATION shall any tract of land over ten acres in area used for or devoted to the commercial production of farm products.

AGRICULTURAL SERVICES shall mean establishments primarily engaged in performing agricultural, animal husbandry or horticultural services; agricultural product milling and processing; establishments engaged in performing services such as fruit picking, grain cleaning, harvesting and plowing.

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

AIRPORT shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas. (See Section 5.18)

AIRPORT HAZARD ZONE the area of land surrounding an airport in which structures and land uses have the potential to obstruct the airspace required for the flight of an aircraft in landing or taking off at the airport or may be otherwise hazardous to such landing or taking off. This area consists of the required approach zone, turning zone, and transition zones. The outer boundary of this area is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the approach and turning zones. (See Section 5.18)

ALLEY shall mean a public or private right-of-way which is used for secondary vehicular service access to the rear or side of those properties whose principal frontage is on a street.

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

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

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

AMERICANS WITH DISABILITY ACT (ADA) is a 1990 federal law designed to improve disabled Americans' access to jobs, transportation, public facilities, and services.

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

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

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

ANTIQUE STORE shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of belonging to the past, at least 30 years old.

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

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

APPEARANCE shall mean the outward aspect visible to the public.

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

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

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

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

ARTIST STUDIO shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

ASSISTED LIVING FACILITY shall mean a type of long-term care facility for elderly or disabled people needing assistance with daily activities such as eating, bathing, dressing, laundry, housekeeping, and medicating. These facilities typically have a central cafeteria and nursing staff on call.

ATTACHED PERMANENTLY shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

AUCTION SALES shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes motor vehicle wholesale sales, including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles.

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

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

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

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

2.02.02 **B**

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

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

BASEMENT shall mean a building space partly underground, and having at least one-half of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.

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

BED and BREAKFAST shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided, and that no more than five rooms or suites of rooms shall be provided for guests. The owner and/or host shall reside on the premises.

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

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

BLOCK shall mean a piece or parcel of land entirely surrounded by public highways or streets, other than alleys or by a combination of streets and public parks, cemeteries, railroad rights-of-way, watercourses or municipal boundaries. In cases where the platting is incomplete or disconnected, the city engineer shall determine the outline of the block.

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

BOARD OF ADJUSTMENT shall mean that board that has been created by the City and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

BOARDING OR ROOMING HOUSE shall mean a building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

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

BORROW PIT shall mean any place or premises where dirt, soil, sand, gravel or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

BOUNDARIES shall mean: (1) the term "boundaries," when indicated as approximately following centerlines of street, road, highway, alley or railroad rights-of-way, shall be construed to follow such lines, (2) The term "boundaries," when indicated as approximately following platted lot lines or city limit lines shall be construed to follow such lines.

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

BREWERY shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.

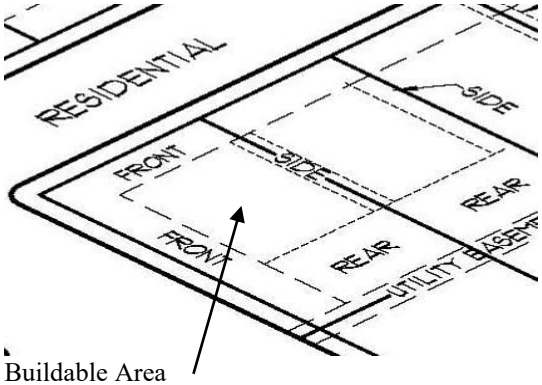
BREWERY, MICRO shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

BROADCASTING TOWER shall mean a structure for the transmission or broadcast of radio, television, radar, or a microwave which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered broadcast towers. Shall also mean wireless communication tower.

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

BUFFER ZONE shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.

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



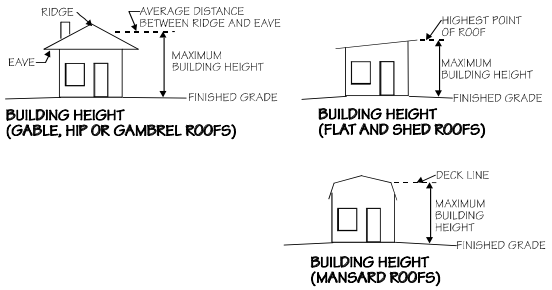
Example of Buildable Area

BUILDING shall mean any structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure. The term "building" includes the term "structure."

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

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

BUILDING HEIGHT shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five foot horizontal distance at the exterior wall of the building. (Also see Height of Structures)



Example of Building Height Measurements

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

BUILDING OFFICIAL shall mean the City Manager or his/her designee.

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

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

BUSINESS OR TRADE SCHOOL (See Vocational Training Facilities)

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

2.02.03 **C**

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

CAR WASH shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

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

CARPORT shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.

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

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

CHARITABLE ORGANIZATION or CLUB shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

CHILD CARE CENTER shall mean a facility which is or should be licensed by the state department of social services as defined under the authority of R.R.S. 1943, §§ 71-1908—71-1923, as provided and defined under 391 N.A.C. § 1-003.

CHILD CARE HOME: shall mean a facility which is or should be registered by the state department of social services as a family day care home when care is provided for four or more children from different families as defined under R.R.S. 1943, §§ 71-1908—71-1923.

CHURCH shall mean a permanently located building commonly used for religious worship fully enclosed with walls (including windows and doors) and having a roof and conforming to applicable legal requirements.

CHURCH, STOREFRONT shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.

CLEAR VIEW ZONE shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also see Sight Triangle)

CLUB shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups organized primarily to render a service carried on as a business for profit.

CLUB, PRIVATE shall mean a building or premises used for social, recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons.

CLUSTER DEVELOPMENT shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.

CODE shall mean the City Code of the City of Lexington.

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

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

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

COMMUNITY CENTER shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

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

COMPATIBLE USES shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

COMPREHENSIVE PLAN shall mean the Comprehensive Plan of Lexington, Nebraska, as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-903, R.R.S. 1943, as the same may, from time-to-time, be amended.

CONDITIONAL USE shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

CONDITIONAL USE PERMIT shall mean a permit issued by the City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of this ordinance and any additional conditions placed upon, or required by said permit.

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

CONFLICTING LAND USE shall mean the use of property that transfers across neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

CONGREGATE HOUSING shall mean a residential facility for four or more persons 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility.

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

CONSERVATION AREA shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

CONSERVATION EASEMENT shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

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

CONTINUING CARE RETIREMENT COMMUNITY shall offer services and housing packages that allow access to senior independent living, assisted living, and nursing care facilities. Seniors who are independent may live in a single-family home, apartment or condominium within the Continuing Care Retirement Community. When members of the community begin to need help with activities of daily living (e.g. bathing, dressing, eating, etc.), they may be transferred to an assisted living or nursing care facility on the same site.

CONVENIENCE STORE shall mean a one-story, retail store containing less than 10,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.

COPY CENTER shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.

COUNTRY CLUB shall mean buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for profit. The affairs and management of such club are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests, provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs include, but are not limited to: swimming, tennis, and golf course.

COURT shall mean an open, unoccupied space, other than yard, bounded on three or more sides by exterior walls of a building, or by exterior walls of a building and lot lines on which walls are allowable.

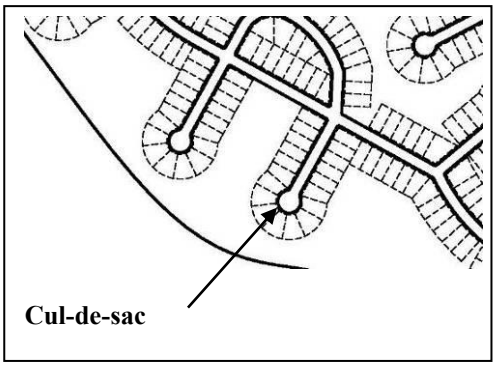
COURT, INNER shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

COURT, OUTER shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

COVERAGE is the percentage of the lot covered by buildings and structures.

CRAWL SPACE shall mean the unimproved enclosed area below the first usable floor of a building, generally less than five feet in height, used for limited access to plumbing and electrical utilities and does not include "Basement."

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



CURB LEVEL shall mean the mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.

2.02.04 **D**

DATA CENTER shall mean a repository for the storage, management, processing, conversion, and dissemination of data and information which may also house equipment that supports communications network infrastructure without being part of the physical network. A data center may require accessory structures and equipment that includes, but not limited to, office buildings for staff, network systems, water storage tanks, cooling towers, fuel tanks, storage, chillers, electrical transformers, and generators.

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

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

DEVELOPER shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

DEVELOPMENT shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required. Also, shall mean any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a river, stream, lake, pond, woodland, wetland, endangered species habitat, aquifer or other resource area.

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

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

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

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

DISTRICT OR ZONE shall mean sections of zoning area for which this ordinance governing the use of land, building height and bulk, size of yards and intensity of activity are uniform.

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

DOWNZONING shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.

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

DRAINAGEWAY shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided that in the event of doubt as to whether a depression is a watercourse or drainageway, it shall be presumed to be a watercourse.

DRIVE-IN ESTABLISHMENTS shall mean any restaurant, financial institution or product vending enterprise where the patron does not enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building or where facilities are provided for eating outside a building, shall be included in this definition.

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

DUMP shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process. (Also see Landfill)

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

DWELLING shall mean any building or portion thereof which is designed and used for residential purposes.

DWELLING, MANUFACTURED HOME shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development and is permanently attached and has a permanent foundation. (Also see Dwelling, Single Family)

1. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such manufactured home in order to relocate it on another site in accordance to manufacturers recommendations.
2. Permanent Foundation: Based on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing located below ground level to a point below the frost line.

DWELLING, MOBILE HOME shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home.

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

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

Multi-Family Dwelling

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

DWELLING, SINGLE FAMILY shall mean a building having accommodations for or occupied exclusively by one family which meet all the following standards:

1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
2. The home shall have no less than an 18 foot exterior width;
3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
4. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
8. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing located below ground level to a point below the frost line.

Example of Single-Family Attached

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

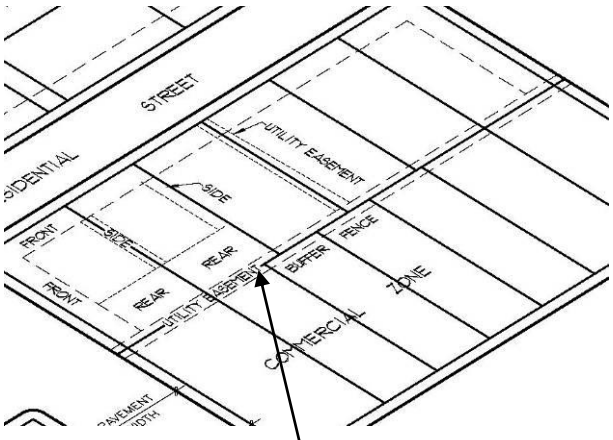
DWELLING, SINGLE-FAMILY (DETACHED) shall mean a dwelling which is entirely surrounded by open space on the same lot and is detached from another single-family dwelling.

DWELLING, TWO FAMILY shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family entirely surrounded by open space on the same lot.

DWELLING UNIT shall mean a unit which consists of one or more rooms which are arranged, designed or used as separate living quarters by a family or other groups of persons living together as a household or person living alone, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

2.02.05 **E**

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



Example of an Easement

EDUCATIONAL FACILITY shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private

schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

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

ENLARGEMENT shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

ERECTED shall mean constructed upon or moved onto a site.

EVENT CENTER shall mean all buildings and associated parking facilities which are kept, used, maintained, advertised, held out, or otherwise made available to private groups and/or the general public for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, secondhand merchandise sales and the like, and may include a banquet hall, private club or fraternal organization.

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

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

EXTERNAL DESIGN FEATURE shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

EXTRATERRITORIAL JURISDICTION shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers. First class cities may have up to a two-mile extraterritorial jurisdiction and second class cities may have up to one mile of extraterritorial jurisdiction.

2.02.06 **F**

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

FACTORY shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

FAMILY shall mean a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship; (2) up to four unrelated people and any related children; and (3) a group care home. The term "family" does not include occupancy of a residence by persons living in fraternities, sororities, clubs or transient, or permanent commercial residential facilities catering to the general public. The term "family" excludes nursing homes and convalescent homes.

FARMERS MARKET shall mean the offering for sale of fresh agricultural products directly to the consumer at an open air market designated by the City Council as a community activity.

FENCE shall mean an enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including vehicles, machinery, equipment, buildings or hedges, shrubs, trees, or other natural growth. A fence shall include retaining walls more than four feet in height. See Chapter 107 of the Municipal Code for additional definitions and regulations.

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

FIREWORKS STAND shall mean any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.

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

FLEA MARKET shall mean a building or open area in which stalls or sale areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either new, old, homemade, homegrown, handcrafted, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. This definition does not include informal or private garage or yard sales.

FLOOD shall mean the water of any watercourse or drainage way which is above the banks or outside the channel and banks of such watercourse or drainage way.

FLOOD PLAIN is that area of land adjoining a watercourse or other body of water which has been or may be hereafter covered by floodwater and which has been designated by the Nebraska Natural Resources Commission, Nebraska Department of Water Resources, or the Federal Emergency Management Agency.

FLOOD PROOFING is a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, intended primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

FLOODWAY is the channel of the stream or body of water and those portions of the adjoining flood plains designated by the Nebraska Natural Resources Commission, Nebraska Department of Water Resources or the Federal Emergency Management Agency as necessary to carry and discharge the floodwater flow of any such river, stream, or other body of water.

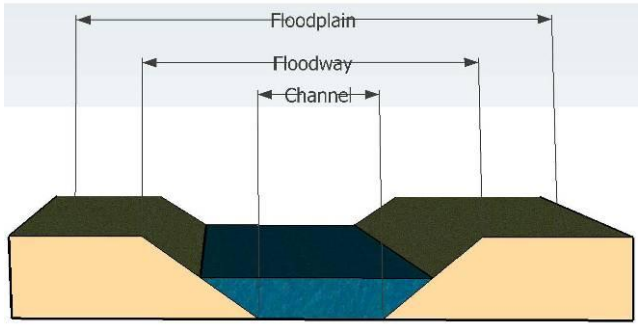


Diagram of Floodplain and Floodway

FLOOR AREA whenever the term "floor area" is used in this ordinance as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

FOOD SALES shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

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

Freestanding Canopy

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

FRONTAGE shall mean that portion of a parcel of property which abuts a dedicated public street or highway.

2.02.07 **G**

GARAGE, PRIVATE shall mean an accessory building or portion of a main building used for storage of automobiles and other personal property incidental to the maintenance of the building and grounds.

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

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

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

GREENHOUSE shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

GREENWAY shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set aside for a walkway, bicycle trail, bridal path, or other similar access-way.

GROUP CARE HOME shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting. The term does not include any society, club, fraternity, sorority, association, lodge combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

GROUP HOME FOR THE HANDICAPPED shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.

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

2.02.08 **H**

HALF-STORY shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.

HALFWAY HOUSE shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

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

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

HEALTH CARE FACILITIES shall mean a facility licensed or approved by the state or an appropriate agency, if required, used in any of the following: (1) Hospitals including offices or medical societies, offices of charitable public health associations, and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be occupied only by those on the staff of the hospital; (2) Convalescent or nursing home; (3) A facility for outpatient physical, occupational, or vocational therapy or rehabilitation; (4) Public health clinics and facilities; and (5) Ambulatory surgical care center which does not allow for overnight

stay by patients. Except, as herein provided, health care facilities do not include doctors, or dentists professional offices and private clinics.

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

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

HEIGHT OF STRUCTURES shall mean the vertical distance from the average ground level abutting a structure to the highest point of any permanent part of a structure other than a building. Height where not regulated in feet shall be regulated by stories and a story shall be equal to 12 feet for purposes of measuring structures other than buildings. (Also see Building Height)

HIGHWAY SETBACK LINE shall mean the future right-of-way line or plan lines of any highway. A yard abutting such a highway shall be measured from this future right-of-way line.

HOME BASED BUSINESS shall mean any business or activity (not including uses defined as Adult Entertainment Establishment) carried on by a member of the family residing on the premises in an agricultural district, in connection with which (1) there is no commodity sold upon the premises, except that which is prepared on the premises in connection with such business or activity; (2) employed individuals from outside the immediate family are limited to two; and (3) no traffic shall be generated by such home business in greater volumes than would be normally generated in the neighborhood.

HOME OCCUPATION shall mean an "in-home" business or service (not including uses defined as Adult Entertainment Establishment) operating from a residential dwelling, or within an accessory structure on the same property in a residential zoning district. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property in all residential zoning districts. Such home occupations shall include, but not limited to, art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/technical), instruction (music), consulting, wholesale/catalogue sales, personal service (beauty/barber/massage/tattoo), shops, renting of rooms for residential purposes, business offices for services such as construction, repair and cosmetic services/sales rendered at other locations, internet business, and other similar uses. Such uses include on-site sales and services and may include an employee not residing on the premises.

HOMEOWNERS ASSOCIATION shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.

HOTEL shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.

HOUSEHOLD PET shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

2.02.09 **I**

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

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

INDOOR RECREATIONAL FACILITY shall refer to use of a facility for purposes of recreation. The use shall be completely enclosed within a building with the exception of retractable roofs. Examples include, but are not limited to sports courts, gymnastics, batting cages, practice fields, and miniature golf.

INDUSTRIAL PARK shall mean a planned coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.

INDUSTRY shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

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

INFILL SITE shall mean any vacant lot, parcel, or tract of land within developed areas of the City, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.

INTENSITY shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential, to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

INTENSIVE LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS shall mean any building, lot, pen, pool, pond or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for ongoing confined raising, feeding or management of animals which exceed the following animal capacities:

(1) 50 or more feeder or fat cattle;
(2) 50 or more beef breeding animals, two years or older;
(3) 30 or more dairy cattle;
(4) 300 or more swine;
(5) 500 or more sheep;
(6) 1,000 or more poultry; or
(7) An equivalent in combined animal units.

2.02.10 **J**

JUNK shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous metal.

JUNK (or SALVAGE) YARD shall mean a place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment. The term "junkyard" or "salvage yard" does not include pawnshops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

2.02.11 **K**

KENNEL shall mean an establishment where three or more dogs, cats, or other household pets, or non-farm/non-domestic or any combination of five or more thereof, at least four months of age are boarded as a business.

2.02.12 **L**

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

LANDFILL shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements. (Also see Dump)

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

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

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

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

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

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

LOADING AREA OR SPACE shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

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

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

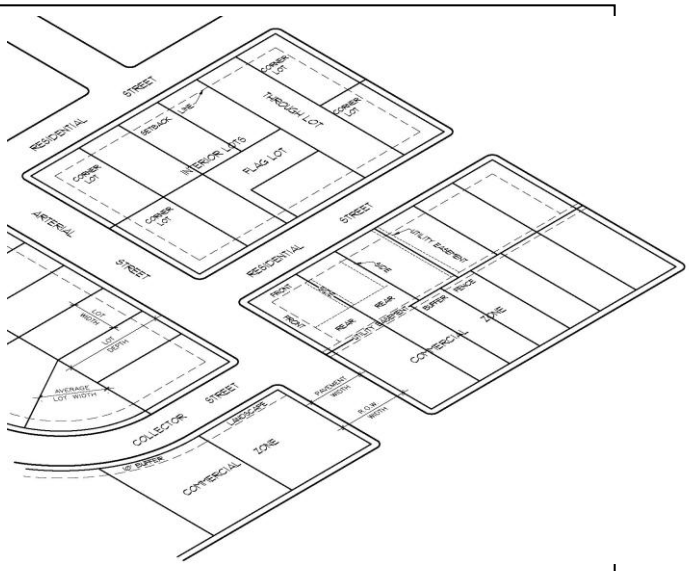
LOT shall mean a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development. The term "lot" includes the terms "piece" and "plot."

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

LOT, CORNER shall mean a lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension; except that a lot as herein defined, when made up of more than one platted lot, shall be deemed to front on the street upon which the platted lots front.

LOT COVERAGE shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

LOT, CURVED shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.



Lot Types

LOT DEPTH shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

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

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

LOT FRONTAGE shall mean the side of a lot abutting on a legally accessible street right-of-way or an improved county road.

LOT, INTERIOR shall mean a lot whose side lines do not abut upon any street.

LOT LINE shall mean the property line bounding a lot.

LOT LINE, FRONT shall mean the boundary between a lot and the street on which it fronts.

LOT LINE, REAR shall mean the boundary line which is opposite and most distant from the front street line.

LOT LINE, SIDE shall mean any lot boundary line not a front or rear line thereof, a side line may be a party lot line, a line bordering on an alley or place or a side street line.

LOT, NON-CONFORMING shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this ordinance.

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

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

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

2.02.13 **M**

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

MANUFACTURING shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

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

MAP, OFFICIAL ZONING DISTRICT shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Lexington City Council.

MASSAGE ESTABLISHMENT shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of

therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per §71-1,278 through §71-1,283, Nebr. R.R.S., 1943

MEETING HALL shall mean a building designed for public assembly.

MICROBREWERY (See Brewery, Micro)

MISCELLANEOUS REPAIR SERVICES shall include electrical repair shops; watch, clock and jewelry repair shops; and re-upholstery and furniture repair. (Also see Standard Industrial Classification (SIC) Major Group 76, published by the U.S. Department of Labor)

MIXED USE shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

MOBILE HOME PARK shall mean a tract of land containing suitable drives, utilities and other supporting elements, and devoted to the sole purpose of accommodating mobile homes on a permanent or semi-permanent basis.

MOBILE HOME SPACE shall mean the area of land within a mobile home park set aside for use as a site for one mobile home, including the open spaces around such mobile home.

MOBILE HOME SUBDIVISION shall mean an area of land containing not less than 30 lots, and the public streets necessary to serve such lots, the purpose of which is to convey in fee the individual lots for the location of mobile homes in a permanent fashion.

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

MOTEL (See Hotel)

2.02.14 **N**

NIGHTCLUB shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also see Bar)

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

NON-CONFORMING USE, BUILDING, STRUCTURE OR YARD shall mean a use, building, structure or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated and existed legally prior to the adoption of this ordinance.

NUISANCE shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

NURSERY shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

NURSING CARE AND REHABILITATION FACILITIES shall mean a type of care facility for persons with chronic illness or disability, particularly older people who have mobility and eating problems. These facilities are licensed by the State of Nebraska and offer 24-hour room and board and health care services, including basic and skilled nursing care, rehabilitation, hospice, and a full range of other therapies, treatments, and programs

2.02.15 **O**

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

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

OFF-STREET PARKING AREA or VEHICULAR USE AREA shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

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

OPEN SPACE, COMMON shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

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

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

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

OVERLAY DISTRICT shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

2.02.16 **P**

PARCEL shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

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

PARKING AREA, PRIVATE shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

PARKING AREA, PUBLIC shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

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

PARKING SPACE, AUTOMOBILE shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by twenty feet, plus such additional area as is necessary to afford adequate ingress and egress.

PARKING SPACE, OFF-STREET shall mean an area, enclosed or unenclosed, not less than nine feet by twenty feet in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

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

PERMANENT FOUNDATION shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

PERMANENTLY ATTACHED shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

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

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

PLANNED UNIT DEVELOPMENT shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

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

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

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

PREMISES shall mean a lot, together with all buildings and structures thereon.

PROFESSIONAL SERVICES shall mean offices for professional services, including, but not limited to, services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, counselors, architects, engineers, lawyers and accountants.

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

PROTECTED ZONE shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the zoning regulations.

PUBLIC FACILITY shall mean any facility held, used, or controlled exclusively for public purposes by any department or branch of federal, state, county, or city government. Also shall mean a facility building belonging to or used by the public for the transaction of public or quasi-public business. Public services may be rendered from such facilities.

PUBLIC SERVICES/USE shall mean services provided by a public agency within a government facility for purposes of public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

PUBLIC UTILITY shall mean any business which furnishes the general public telecommunications service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

PUBLIC WATER SUPPLY shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least twenty-five individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

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

2.02.17 **Q**

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

2.02.18 **R**

RAILROAD shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

RECREATIONAL FACILITY shall mean public or private facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events.

RECREATIONAL VEHICLE (RV) shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use, having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

RECYCLING CENTER shall mean a facility other than a junkyard in which recoverable resources such as paper, glass, metal cans, and plastics, are collected, bundled, stored, flattened, crushed, or reduced in some manner within a completely enclosed building, in preparation for shipment to others from reuse.

RECYCLING COLLECTION POINT shall mean a drop-off point for temporary storage of recoverable resources such as paper, glass, cans, and plastics, and where no processing of such items takes place.

RECYCLING PLANT shall mean a facility other than a junkyard where recoverable resources such as paper products, glass, plastic, metal cans and other products are recycled, reprocessed, and treated to return the products to a condition in which they may be repurposed or reused for production.

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

REMODELING is any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life; or the construction of any addition to, or enlargement of, a structure; or removal of any portion of a structure.

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

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

RESTAURANT shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

RESTAURANT, DRIVE-IN shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

Restaurant, Fast Food

RESTAURANT, ENTERTAINMENT shall mean an establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.

RESTAURANT, FAST FOOD shall mean an establishment whose principal business is the sale of food and/or beverages in

ready-to-consume individual servings, for consumption either within the establishment, for carryout, drive-thru or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.

RETAIL TRADE or USE shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods.

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

REVERSE SPOT ZONING shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.

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

RIGHT-OF-WAY shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

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

2.02.19 **S**

SATELLITE DISH ANTENNA shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic signals.

SCHOOL, ELEMENTARY, JUNIOR HIGH, OR HIGH shall mean public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.

SCHOOL, PRE-, OR NURSERY shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.

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

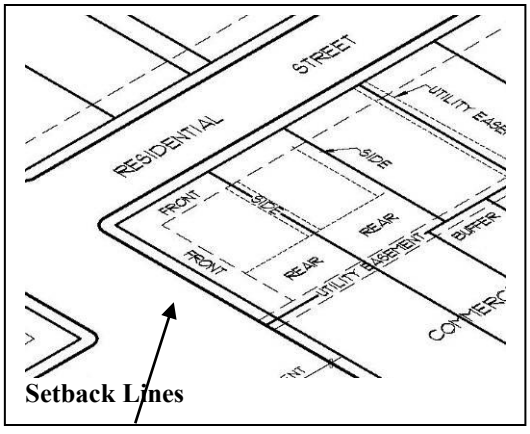
SCREENING shall mean a structure or planting that conceals from view from public ways the area behind such structure or planting. (Also see Buffer)

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

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

SERVICE FLOOR AREA shall mean the total floor area of a building exclusive of stairways, restrooms, storage rooms, hallways or other areas which are not regularly used by visitors, clients, customers, patients or patrons in their normal everyday use of the building

SERVICE STATIONS shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine



overhauls, painting, and body repair.

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

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

SHOPPING CENTER shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.

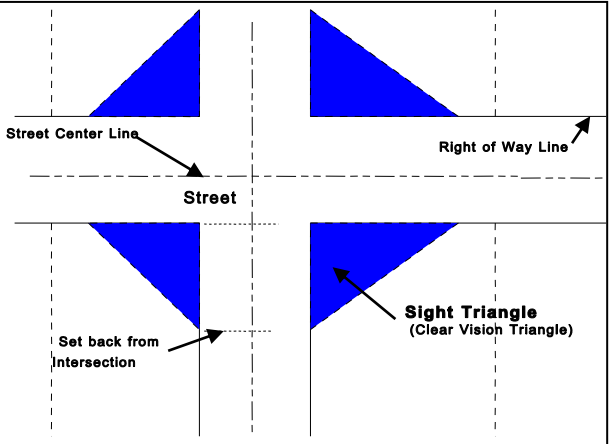
SHOPPING CENTER, COMMERCIAL STRIP shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one City block or more and includes individual buildings on their own lots, with or without on-site parking and small linear shopping centers with shallow on-site parking in front of the stores.

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

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

Example of a Sidewalk Cafe

SIGHT TRIANGLE is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and eight feet above the crown of the street adjacent, within a sight distance triangle bounded by the edges of the roadway or the curb on the two sides and a line diagonally across the corner lot meeting the edges of the roadway or the curb 40 feet from their intersection at the corner.



Sight Triangle Diagram

SIGN shall mean an exterior display of any letters, numerals, pictorial representation, symbol, flag, emblem, designs or trademarks illuminated or animated device which makes information known to the public or directs attention of the public off the site on which the sign is displayed to any object, subject, place, person, activity, product, etc. (See Chapter 109 of the Municipal Code)

SIMILAR USE shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

SITE PLAN shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land. (Also see Development Concept Plan)

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

SOCIAL CLUB OR FRATERNAL ORGANIZATIONS shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups organized primarily to render a service carried on as a business for profit.

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

SPECIFIED ANATOMICAL AREAS shall mean anatomical areas consisting of:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES shall mean activities consisting of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
5. Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
6. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal, or anal irrigation.

SPOT ZONING shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.

STORAGE shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.

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

STORM DRAIN shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.

STORMWATER DETENTION shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof. Said detention shall be designed by a licensed professional engineer and approved by the City.

STORMWATER MANAGEMENT shall mean the collecting, conveyance, channeling, holding retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.

STORMWATER RETENTION AREA shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.

STORMWATER RUNOFF shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.

STORY shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade and more than 50 percent of that total

perimeter, or is more than 12 feet above grade at any point, then such basement or cellar shall be considered a story.

STREET shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this ordinance.

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

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

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

STREET, EXPRESSWAY shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

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

STREET, FRONTAGE ACCESS shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.

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

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

STREET, PRIVATE shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."

STREETSCAPE shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.

STRUCTURAL ALTERATION shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

STRUCTURE shall mean anything constructed or erected, any edifice or building of any kind, which requires location on the ground, or attached to something having a location on the ground, including but not limited to signs, covered patios, and excepting customary utility poles, paved areas, walks, retaining walls and boundary fences.

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

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

2.02.20 **T**

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

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

TEMPORARY USE shall mean a use intended for limited duration, not to exceed six months, to be located in a zoning district not permitting such use.

THEATER shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received, and there is no audience participation or meal service.

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

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

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

TRANSPORTATION SERVICES shall mean establishments providing services incidental to transportation, such as forwarding, packing, crating, or other means of preparing goods for shipping. (Also see Standard Industrial Classification (SIC) Industry Group 473 and description 4783, published by the U.S. Department of Labor)

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

TRUCK REPAIR shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton, and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.

TRUCK TERMINAL shall mean a building or an area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks are parked or stored for a short time period.

2.02.21 **U**

UPZONING shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.

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

USE, BEST shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.

USE, HIGHEST shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

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

USED MATERIALS YARD shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards."

UTILITY HARDWARE shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

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

2.02.22 **V**

VARIANCE shall mean a relief from or variation of the provisions of this Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning. A variance is a relaxation of the terms of the zoning ordinance 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 ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

VEGETATION shall mean all plant life; however, for purposes of these zoning regulations it shall be restricted to mean trees, shrubs, and vines.

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

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

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

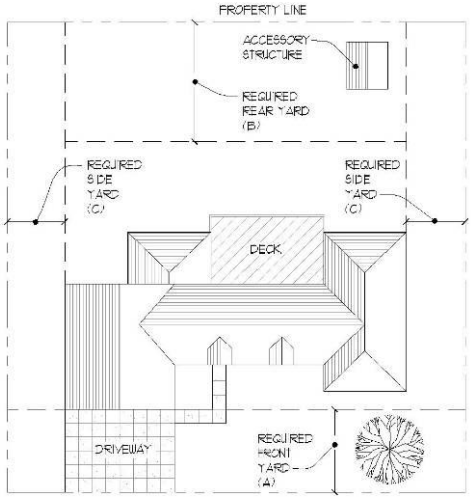
2.02.23 **W**

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

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

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

WHOLESALE SALES AND SERVICES shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In additional to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.



Example of Different Yard Requirements

WIRELESS COMMUNICATIONS TOWER shall mean a structure designed and constructed to support one or more

antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground with guy wires), of either lattice or monopole construction. (See Section 7.07 and Wireless Communications Tower)

2.02.24 **X**

2.02.25 **Y**

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

YARD, FRONT shall mean a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

YARD, REAR shall mean a yard between the rear lot line and the rear line of the main building and the side lot lines.

YARD, SIDE shall mean a yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.

YARD, STREET SIDE is a yard that occurs at a corner lot. The Street Side Yard is adjacent to the public right-of-way and perpendicular to the established Front Yard. Special setback requirements may be present in this yard condition.

2.02.26 **Z**

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

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

ZONING DISTRICT shall mean the same as "District."

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

ARTICLE 3: DISTRICTS AND OFFICIAL MAP

Section 3.01 Districts

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within the prescribed extraterritorial jurisdiction of the City as allowed under Nebraska Revised Statutes the City is hereby divided into districts.

Section 3.02 Provision for Official Zoning Map

3.02.01 The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. _____ of the City of Lexington, Nebraska," together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ by Ordinance No. _____ of the City of Lexington, Nebraska."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE 4: GENERAL PROVISIONS

Section 4.01 Planning Commission Recommendations

Pursuant to Section §19-901 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

Section 4.02 Amendments, District Regulations, Restrictions, Boundary Creation

This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing.

In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near a property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing. The provisions of posting notice shall not apply in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality.

Section 4.03 Jurisdiction

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

Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements

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

Section 4.05 Zoning Affects Every Building and Use

No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

Section 4.06 Lot

4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.

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

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

Section 4.07 Reductions in Lot Area Prohibited

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.08 Obstructions to Vision at Street Intersections Prohibited

No shrubs, trees, bushes or other plant material shall be planted, maintained, allowed to grow, and no structures shall be erected so as to hinder vision in the vicinity of an intersection of two streets, within a sight distance triangle bounded by the edges of the roadway or the curb on the two sides and a line diagonally across the corner lot meeting the edges of the roadway or the curb 40 feet from their intersection at the corner. The term "to hinder vision" means the plant material has leaves, needles, branches or other foliage during any period of the year, and structures of any type as defined in the zoning regulations, exist between levels two feet and eight feet above the crown of the street adjacent. Structures in C-2 district shall be exempt from this section. See Chapter 24 of the Municipal Code for additional vision clearance and obstruction regulations.

Section 4.09 Yard Requirements

4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.

4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

4.09.03 The City may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback in the general area.

4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.

4.09.05 Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening. Included in the increased yard, a solid or semi-solid fence or wall as required in Chapter 107 of the Municipal Code shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the Industrial District.

4.09.06 Where an official line has been established by the city or state for future widening or opening of a street upon which a lot abuts, then the depth or width of a yard shall be measured from such official line to the nearest line of the building.

Section 4.10 Through Lots

4.10.01 Through Lots shall follow the following criteria:

1. Where a Through Lot abuts a major thoroughfare, such as Highway 30, and access is made from the other frontage street and access along said thoroughfare is restricted, the Rear Yard setback for fences and screening devices shall be zero feet. The Rear Yard setback for accessory buildings shall follow the prescribed setback within the zoning district.
2. Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of 4.10.01 (1), while the other two frontages shall be treated as a Corner Lot with a Front Yard setback and a Street Side Yard setback.
3. Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:
   A. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot.
   B. Where principal structures face different directions along both frontages, the Rear Yard setback for fences and screening shall be the same as any prescribed Rear Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot. All accessory buildings in this condition shall comply with the minimum Rear Yard setbacks rather than the reduced setback allowed for accessory buildings.

Section 4.11 Drainage

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent with data indicating that such changes will not be a detriment to the neighboring lands.

Section 4.12 Permitted Obstructions in Required Yards

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

4.12.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than 18 inches into the required yard; fences or walls subject to applicable height restrictions; and ordinary projection of sills, beltcourses, cornices, chimneys, buttresses, ornamental features, eaves and air conditioner units, provided that none of the projections set forth shall extend into a minimum required yard more than 30 inches. Canopies or open porches may project a maximum of six feet into the required front or rear yard and existing open porches extending into the required yard shall not be enclosed.

4.12.02 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted.

4.12.03 *Rear and Side Yards*: Open off-street parking spaces. No rear yard shall be required in C-2 to M-2 districts, inclusive, on any lot used for business or industrial purposes, the rear line for which adjoins a railway right-of-way or which has a rear railway track connection. An open fire escape may project into a required side yard not more than half the width of such yard, but not more than four feet from the building. Fire escapes, solid floored balconies and enclosed outside stairways may not project more than four feet into a required rear yard.

4.12.04 *Double Frontage Lots:* The required front yard shall be provided on each street, unless otherwise provided. A through lot having one end abutting a limited access highway, with no access permitted to that lot from the highway, shall be deemed to front upon the street which gives access to that lot.

4.12.05 *Building Groupings*: For the purpose of the side yard regulation, a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

Section 4.13 Accessory Building and Uses

4.13.01 Buildings and structures may be erected and land may be used for purposes that are clearly incidental, subordinate to, and customarily associated with the main permitted use of the same zone lot. Such accessory building and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful, or disturbing to adjacent property or the users thereof and shall be on the premises of the main use. Such accessory activities shall be controlled in the same manner as the main use except as otherwise expressly provided for hereinafter. The determination of the eligibility of a proposed use as an accessory use shall be made by the Building Official, and appeal can be made from his decision to the board of adjustment.

4.13.02 All accessory buildings, regardless of zoning district, shall be subordinate to the principal building with regard to use, size and building footprint except in the A-1 Agricultural and A-2 Transitional Agriculture Districts.

4.13.03 No accessory building shall be constructed upon a lot prior to the construction of the principal building, except in the A-1 Agricultural and A-2 Transitional Agriculture Districts. No accessory building shall be used unless the main building on the lot is also being used, or unless the main building is constructed, except in the A-1 Agricultural and A-2 Transitional Agriculture Districts; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.

4.13.04 Detached accessory buildings or structures shall be located no closer than 5 feet to any other accessory or principal building.

4.13.05 No accessory building shall be erected in or encroach upon the required front yard or required easements for any zone lot or upon the required street side yard on a corner lot or the front yard of a double frontage lot. Except as herein provided, no accessory building shall project beyond a required yard line along any street.

4.13.06 A detached accessory building shall not be located in the front yard, nor less than seven feet from any side or rear lot line; except, in the case of corner lots, not less than the distance required for residences from side streets.

4.13.07 The side or rear yard setback for an accessory structure having vehicular access through said yard to an alley, public street, private road, or ingress/egress easement shall be a minimum of 15 feet.

4.13.08 Accessory buildings in Residential Districts shall be constructed of materials customarily used in residential construction and be consistent with materials and color of the principle structure and shall not include metal wall panels. The sidewalls of said building shall not exceed 15 feet in height.

4.13.09 Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.

Section 4.14 Permitted Modifications of Height Regulations

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

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television Towers less than 100 feet in height
Conveyors	Silos
Cooling Towers	Smoke Stacks
Elevator Bulkheads	Stage Towers or Scenery Lots
Fire Towers	Tanks
Water Towers and Standpipes	Air-Pollution Prevention Devices
Flag Poles	

4.14.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 4.15 Occupancy of Basements and Cellars

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

Section 4.16 Non-Conforming, General Intent

It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this ordinance.

Section 4.17 Non-conforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be determined by the Building Official.

Section 4.18 Non-conforming Structures

4.18.01 **Authority to continue:** Any structure that is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

4.18.02 **Enlargement, Repair, Alterations:** Any such structure described in Section 4.18.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by or as specified in the Residential District. All enlargements shall meet all existing required setbacks unless provided elsewhere in this Ordinance.

4.18.03 **Damage or Destruction:** In the event that any structure described in Section 4.18.01 is damaged or destroyed, by any means, to the extent of more than 50 percent of its assessed structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.17, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its assessed structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and may be extended six months upon an approved building Permit extension request.

4.18.04 **Moving:** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 4.19 Non-conforming Uses

4.19.01 **Non-conforming Uses of Land:** Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment or this ordinance;
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
3. If any such non-conforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

4.19.02 **Non-conforming Uses of Structures:** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any non-conforming use of a structure or structures and premises may be changed to another non-conforming use provided that the Planning Commission and City Council, after each has completed a Public Hearing as per State Statute, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Planning Commission and/or City Council may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in any or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed;
5. When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where non-conforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

Section 4.20 Repairs and Maintenance

4.20.01 On any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.

4.20.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 4.21 Uses under Conditional Use Permit not Non-conforming Uses

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

Section 4.22 Bulk Regulations

The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space, or minimum lot area allocated to any building shall by virtue or change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

Section 4.23 Recreational Vehicles

Major recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, motor homes, camping buses or converted trucks, tent trailers and other similar vehicles shall not be stored in a residential district except on hard surfaced parking in the side or rear yard. In no case shall the Recreation Vehicle encroach onto any existing sidewalk or within an area where a future sidewalk would be constructed. Refer to Section 7.01 Off-Street Automobile Storage for additional regulations.

Section 4.24 Fees

All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be a part of the Fee Schedule adopted by the City Council by separate Ordinance or Resolution.

Section 4.25 Prohibited Uses

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

Section 4.26 Inspections by City Staff

The provisions of this Ordinance shall be administered and enforced by the Building Official, who shall have the power to make inspection of buildings or premises necessary to carry out individually assigned duties in the enforcement of this Ordinance.

Section 4.27 Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Sections 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

Section 4.28 Building Permits

The following shall apply to all new construction and all applicable renovations and remodels within Lexington's Zoning Jurisdiction:

4.28.01 It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Building Official has issued a building permit for such work.

4.28.02 Issuance of a building permit. In applying to the Building Official for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Building Official for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Building Official shall issue a building permit for such excavation or construction. If a building permit is refused, the Building Official shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Building Official shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A building permit shall become void 12 months from the date of issuance unless substantial progress has been made by that date on the project described therein.

ARTICLE 5: ZONING DISTRICTS

5.01 Districts; Uses
5.02 Districts; Boundaries
5.03 District Boundaries; Interpretation
5.04 Districts; Classification of Districts upon Annexation and Conformance with Land UsePlan
5.05 District (A-1); Agricultural
5.06 District (A-2); Transitional Agriculture
5.07 District (R-1); Single-Family Residential
5.08 District (R-2); Two-Family Residential
5.09 District (R-3); High Density Residential
5.10 District (R-4); Mobile Home Residential
5.11 Overlay District (CO); Neighborhood Commercial
5.12 District (C-2); Core Commercial
5.13 District (C-3); Highway Commercial
5.14 District (M-1); Light Industrial
5.15 District (M-2); Heavy Industrial
5.16 Overlay District (PUD) Planned Unit Development
5.17 Overlay District (FF/FW); Flood Plain
5.18 Overlay District (AH); Airport Hazard
5.19 Overlay District (WP); Wellhead Protection

Section 5.01 Districts; Use

For the purpose of this Ordinance, the Municipality is hereby divided into 11districts, designated as follows:

(A-1) Agricultural
(A-2) Transitional Agriculture
(R-1) Single-Family Residential
(R-2) Two-Family Residential
(R-3) High Density Residential
(R-4) Mobile Home Residential
(CO) Neighborhood Commercial (Overlay)
(C-2) Core Commercial
(C-3) Highway Commercial
(M-1) Light Industrial
(M-2) Heavy Industrial
(PUD) Planned Unit Development (Overlay)
(FF/FW) Flood Plain (Overlay)
(AH) Airport Hazard (Overlay)
(WP) Wellhead Protection (Overlay)

Section 5.02 Districts; Boundaries

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Lexington, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Ordinance. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map. (Ref. §19-904 RS Neb.)

Section 5.03 Rules for Interpretation of District Boundaries

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

5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

5.03.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;

5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

5.03.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01 – 5.03.05 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

5.03.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01 – 5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;

5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

Section 5.04 Classification of Districts Upon Annexation and Conformance with the Land Use Plan

Areas annexed into the corporate limits of Lexington shall be zoned to conform to the Land Use Plan.

Section 5.05 A-1 Agricultural

5.05.01 **Intent:** This district is intended to (1) Preserve land best suited for agricultural uses within the community's zoning jurisdiction; (2) Prevent the intrusion of urban development into agricultural areas which would make agricultural production uneconomical or impractical; (3) Preserve in agricultural use, land suited to the eventual development in other uses until such time as streets, utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use; and (4) Provide appropriate locations for certain types of establishments primarily servicing agricultural producers.

5.05.02 **Permitted Uses:**

The following principal uses are permitted in the A-1 District.

1. Agricultural farms or operations, excluding the expansion of existing or development of new intensive livestock confinement facilities/operations as defined in Section 2.02
2. Bulk grain storage;
3. Child care home;
4. Churches;
5. Greenhouses and nurseries;
6. Home based business;
7. One single-family dwelling per zone lot;
8. Public and private recreational facilities, conservation areas, and flood control projects;
9. Educational facilities;
10. Public owned and operated facilities, services;
11. Veterinary services, animal hospitals, kennels and stables.

5.05.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the A-1 District as recommended by the Planning Commission and approved by the City Council.

1. Roadside stands;
2. Agricultural services;
3. Airports;
4. Auction sales;
5. Radio, television and wireless communication towers and transmitters, as per Section 7.07;
6. Campgrounds, subject to Section 7.14;
7. Cemeteries and mortuaries;
8. Child care centers;
9. Private schools;
10. Contiguous expansion of intensive livestock, confinement facilities/operations, as defined in Section 2.02;
11. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
12. One additional single-family dwelling for the purpose of housing relatives or agricultural workers, including mobile homes, subject to compliance with Section 7.20;
13. Public and private water treatment and storage, wastewater treatment plants, and sanitary landfills;
14. Quarries subject to the conditions in Section 7.15;
15. Concrete or asphalt construction batch plants that is temporary in nature;
16. Bed and breakfast subject to Section 7.19.

5.05.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted use, including outdoor storage containers per Section 7.17;
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work;
3. Signs as provided for in Chapter 109 of the Municipal Code;
4. Parking as provided for in Sections 7.01-7.05;
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.

5.05.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Acres)	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Residential Dwelling	10*	400	50	25	50	35	20%
Other Permitted Uses	5*	200	50	15	25	35	20%
Conditional Uses	5*	200	50	15	25	35	20%
Accessory Buildings	-	-	***	***	***	100	20%**

* Excluding road R.O.W. except as herein exempted or on non-conforming lots of record.
** Total not to exceed 1,500 sq. ft. for non-agricultural uses where total lot coverage of all structures does not exceed 40 percent.
*** See Section 4.13.07

Section 5.06 A-2 Transitional Agriculture

5.06.01 **Intent:** This district is intended to allow for future orderly development of the community. Development may occur in this district, but only if public water and sanitary sewer systems and all other public facilities are provided.

5.06.02 **Permitted Uses:**

The following principal uses are permitted in the A-2 District.

1. Agricultural farm or operation, excluding the expansion of existing or development of new intensive livestock, confinement facilities/operations as defined in Section 2.02;
2. Child care home;
3. Churches;
4. Home based business;
5. One single-family dwelling per zone lot;
6. Public and private recreational facilities, conservation areas, and flood control facilities;
7. Educational facilities;
8. Public owned and operated facilities, services;
9. Roadside stands;
10. Greenhouses and nurseries.

5.06.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the A-2 District as recommended by the Planning Commission and approved by the City Council.

1. Agricultural services;
2. Radio, television and wireless communication towers and transmitters, as per Section 7.07;
3. Campgrounds, subject to Section 7.14;
4. Cemeteries and mortuaries;
5. Child Care Centers;
6. Private schools;
7. Health care facilities, long-term care facilities;
8. One additional single-family dwelling for the purpose of housing relatives or agricultural workers, including Mobile homes, subject to compliance with Section 7.20;
9. Airports;
10. Veterinarian services, animal hospitals, kennels and stables;
11. Quarries subject to the conditions in Section 7.15;
12. Public and private water treatment and storage, wastewater treatment plants;
13. Concrete or asphalt construction batch plants that are temporary in nature;
14. Bed and breakfast subject to Section 7.19.

5.06.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted use including outdoor storage containers per Section 7.17;
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work;
3. Signs as provided for in Chapter 109 of the Municipal Code;
4. Parking as provided for in Sections 7.01-7.05;
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.

5.06.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Acres)	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Residential Dwelling	10*	400	50	25	50	35	20%
Other Permitted Uses	5*	200	25	15	25	35	20%
Conditional Uses	5*	200	25	15	25	35	20%
Accessory Buildings	-	-	***	***	***	100	40%**

* Excluding road R.O.W. except as herein exempted or on non-conforming lots of record.
** Total not to exceed 1,500 sq. ft. for non-agricultural uses where total lot coverage of all structures does not exceed 15 percent.
*** See Section 4.13.07

Section 5.07 R-1 Single-Family Residential

5.07.01 **Intent:** The Single-Family Residential District is intended to permit low to medium-density residential developments to accommodate residential and compatible uses in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.07.02 **Permitted Uses:**

The following principal uses are permitted in the R-1 District:

1. Child care homes;
2. One single-family dwelling per zone lot;
3. Educational facilities;
4. Publicly owned and operated facilities, services;
5. Home Occupations in conformance with Section 7.06.

5.07.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended by the Planning Commission and approved by the City Council.

1. Public and private recreational facilities;
2. Churches;
3. Group Care Home;
4. Child Care Centers;
5. Health care facilities, long-term care facilities;
6. Neighborhood Commercial Uses subject to CO Overlay;
7. Bed and breakfast subject to Section 7.19;
8. Radio, television and wireless communication towers and transmitters, as per Section 7.07, provided located on public property.

5.07.04 **Permitted Accessory Uses:**

The following accessory uses are permitted in the R-1 Single-Family Residential District:

1. Buildings and uses customarily incidental to the permitted uses;
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work;
3. Decks, elevated patios either attached or detached;
4. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence;
5. Parking for permitted uses as per Sections 7.01-7.05;
6. Signs allowed in Chapter 109 of the Municipal Code;
7. Landscaping as required by Article 8.

5.07.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width (ft)	Front Yard (ft) **	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Single-family Dwelling	8,000	70	25	7	25	35	30
Other Permitted and Conditional Uses	8,000	70	25	7	25	35	30
Accessory Buildings	-	-	**	**	**	35	-

** See Section 4.13.07. Accessory structures with vehicular access directly to alley or street shall have a setback of at least 15 feet.

Section 5.08 R-2 Two-Family Residential

5.08.01 **Intent:** The purpose of this district is to permit single-family density residential with an increase of density to include duplexes and similar residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.08.02 **Permitted Uses:**

The following principal uses are permitted in the R-2 District:

1. Single family detached dwellings;
2. Single family attached dwellings;
3. Two-family, duplex, dwellings;
4. Educational facilities;
5. Publicly owned and operated facilities, services;
6. Child care homes;
7. Home occupations; in conformance with Section 7.06.

5.08.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended by the Planning Commission and approved by the City Council:

1. Public and private recreational facilities;
2. Churches;
3. Health care facilities, long-term care facilities;
4. Group Care Home;
5. Child Care Centers;
6. Mortuaries;
7. Neighborhood Commercial Uses subject to CO Overlay;
8. Bed and breakfast subject to Section 7.19;
9. Radio, television and wireless communication towers and transmitters, as per Section 7.07, provided located on public property.

5.08.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses. No accessory building shall exceed the ground floor coverage of the principal dwelling.
2. Decks, elevated patios either attached or detached;
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work;
4. Signs as provided for in Chapter 109 of the Municipal Code;
5. Parking as provided for in Sections 7.01-7.05;
6. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence;
7. Landscaping as required by Article 8.

5.08.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Single-family Dwelling	7,000	50	25	7	25	35	50
Two-family Dwelling	10,890	75	25	7	25	35	50
Other Permitted and Conditional Uses[2]	10,890	75	25	7	25	45	50
Accessory Buildings	-	-	**	**	**	35	-

** See Section 4.13.07. Accessory structures with vehicular access directly to alley or street shall have a setback of at least 15 feet.

Section 5.09 R-3 High Density Residential

5.09.01 **Intent:** The purpose of this district is to permit high density residential in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.09.02 **Permitted Uses:**

The following principal uses are permitted in the R-3 District:

1. Multi-family dwellings, including townhouses and condominiums;
2. Educational facilities;
3. Publicly owned and operated facilities, services;
4. Child Care Home;
5. Group Care Home;
6. Two-family dwellings;
7. Single-family dwellings;
8. Home Occupations as per Section 7.06.

5.09.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-3 District as recommended by the Planning Commission and City Council and approved by the City Council:

1. Churches;
2. Health care facilities, long-term care facilities;
3. Child Care Centers;
4. Charitable organizations or clubs;
5. Congregate housing;
6. Boarding house and lodging house;
7. Domestic shelter. The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;
8. Temporary shelter for homeless. The maximum number of occupants of such a facility shall not exceed one person per 500 square feet of lot area;
9. Neighborhood Commercial Uses subject to CO Overlay;
10. Mortuaries;
11. Public and private recreational facilities;
12. Bed and breakfast subject to Section 7.19;
13. Radio, television and wireless communication towers and transmitters, as per Section 7.07, provided located on public property.

5.09.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses;
2. Decks, elevated patios either attached or detached;
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work;
4. Signs as provided for in Chapter 109 of the Municipal Code;
5. Parking as provided for in Sections 7.01-7.05;
6. Private swimming pool, tennis court, & other recreational facilities in conjunction with a residence;
7. Landscaping as required by Article 8.

5.09.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Single-family Dwelling (existing)	5,000	50	25	7	25	35	50
Two-family Dwelling	7,260	75	25	7	25	35	50
Three and Four Units (per dwelling unit)	3,630 per unit	80	25	7***	25	35	50
Other Permitted and Conditional Uses	7,260	80	25	7	25	45	50
Accessory Buildings	-	-	**	**	**	35	-

** See Section 4.13.07. Accessory structures with vehicular access directly to alley or street shall have a setback of at least 15 feet.

*** For Multi-Family units the side yard shall be 7 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories

Section 5.10 R-4 Mobile Home Residential

5.10.01 **Intent:** This district is intended to provide for the development of mobile home parks, and subdivisions where individuals may purchase lots and attach mobile homes to a permanent foundation. The minimum size of a zoned area shall be two acres.

5.10.02 **Permitted Uses:**

The following principal uses are permitted in the R-4 Mobile Home Residential District:

1. Single Family Dwelling;
2. Mobile Home Dwelling within mobile home park, subject to Section 7.20;
3. Mobile Home Dwelling within a mobile home subdivision, subject to Section 5.10.06;
4. Child care homes;
5. Publicly owned and operated facilities, services;
6. Home Occupations as per Section 7.06.

5.10.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-4 District as recommended by the Planning Commission and approved by the City Council:

1. Churches;
2. Child Care Centers;
3. Public and private recreational facilities;
4. Mobile Home Park, subject to regulations in Sections 5.10.05, 5.10.06, and 7.20;
5. Radio, television and wireless communication towers and transmitters, as per Section 7.07, provided located on public property.

5.10.04 **Permitted Accessory Uses:**

The following accessory buildings and uses are permitted in the R-4 District:

1. Buildings and uses customarily incidental to the permitted uses;
2. Decks, elevated patios either attached or detached;
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work;
4. Signs as provided for in Chapter 109 of the Municipal Code;
5. Parking as provided for in Sections 7.01-7.05;
6. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence;
7. Landscaping as required by Article 8.

5.10.05 **Area, Lot and Structure Requirements:**

1. All mobile homes and mobile home parks are subject to the provisions and restrictions provided herein.
2. Except within a mobile home park, which is subject to standards as provided herein, the maximum height and minimum lot requirements within the R-4 District shall be as follows:

			Setbacks				
Uses	**Min. Lot Area (sq. ft.)**	**Min. Lot Width (feet)**	**Front Yard (feet)**	**Rear Yard (feet)**	**Side Yard (feet)**	**Max. Building Height (feet)**	**Max. Lot Coverage (%)**
Permitted Uses	5,000	50	25	25	7	20	50
Conditional Uses	5,000	50	25	25	7	20	50
Accessory Uses	-	-	**	**	**	20	-

** See Section 4.13.07. Accessory structures with vehicular access directly to alley or street shall have a setback of at least 15 feet.

5.10.06 **Other Applicable Provisions:**

1. Except within a licensed mobile home park, no mobile home shall be permitted to be placed in this district which does not meet the following requirements:
   A. The structure shall be not less than 18 feet in width as titled by the state, and 900 square feet of finished living area and shall have an insignia of compliance with HUD standards and manufactured after June 15, 1976;
   B. Foundations and setup. Mobile homes shall be attached to permanent and continuous foundations which maintain at least 18 inches of clear crawl space. The foundations shall be of

sufficient strength to support the loads imposed by the mobile home, based on accepted engineering design standards, as approved by the building official. Foundation tie-downs or other supports shall be provided to withstand the specified horizontal, uplift, and overturning wind forces on a mobile home, based on accepted engineering design standards, as approved by the building official. All wheels and towing assemblies shall be removed.

2. See Section 7.20 for additional regulations pertaining to mobile homes, mobile home parks, and mobile home subdivisions. Mobile homes must meet all building codes.

Section 5.11 CO Neighborhood Commercial (Overlay)

5.11.01 **Intent:** This floating district is intended to provide for uses to serve the recurring household needs and personal service requirements of the occupants of nearby residential areas, and also professional offices which do not conflict with the residential character of a neighborhood. These districts may occur along or away from arterial streets, characteristically are small, and are distributed widely over the area for convenient accessibility by residential area occupants.

5.11.02 **Conditional Uses:**

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

1. Barber and beauty shops;
2. Professional services;
3. Dance studio;
4. Adult Day Care Center;
5. Variety store;
6. Pet grooming;
7. Food Sales (limited).

5.11.03 **Height and Lot Requirements:**

1. The height and minimum lot requirements for permitted, conditional and accessory uses shall be as follows:

Uses	Lot Area (SF)	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Permitted Uses	5,000	50	25**	7	25	35*	50
Conditional Uses	5,000	50	25**	7	25	35*	50

* Special Provisions. Any building, over two (2) stories in height permitted in Neighborhood Commercial District, shall be so designed to provide for adequate light and air so that any part of such building above the second story shall be no closer than twenty (20) feet perpendicular distance from the vertical extension of any lot boundary.

** 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

5.11.04 **Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property as per Article 8.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

5.11.05 **Other Applicable Provisions:**

1. Construction standards. A building or premises not used solely for residential purposes shall comply with the following standards:
   A. Building conversion. A building constructed for residential use may be converted for use as an office or other permitted business purpose if the following conditions are met:
      (1) Any new construction or improvements shall comply with the height and area standards of subsection 5.11.03 of this section;
      (2) All required off-street parking shall be located in the side or rear yard, and shall be screened from abutting residential property by solid fencing at least six feet in height ;
      (3) Converted buildings shall comply with building codes and handicap access standards for a commercial building.
   B. New construction. Prior to issuance of a building permit for new construction, building plans shall be submitted to the Planning Commission for review and approval. The standard of review shall be whether the proposed new structure is consistent in character and appearance with the surrounding residential neighborhood.

Section 5.12 C-2 Core Commercial

5.12.01 **Intent:** This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a central business district. The highest density and intensity of use is permitted in this district. The Core Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community. In addition, this district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

5.12.02 **Permitted Uses:**

The following principal uses are permitted in the C-2 District:

1. Automobile sales;
2. Banks;
3. Offices;
4. Museums and art galleries;
5. Parking lots, parking areas and other off-street parking facilities;
6. Public owned and operated facilities, services;
7. Professional Services;
8. Dance studio;
9. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
   - A. Apparel shop.
   - B. Appliance store.
   - C. Antique store
   - D. Auto parts store.
   - E. Bakery shop.
   - F. Barber and Beauty shop.
   - G. Bicycle shop.
   - H. Book store.
   - I. Camera store.
   - J. Communication services.
   - K. Computer store.
   - L. Confectionery.
   - M. Convenience Store.
   - N. Pharmacy.
   - O. Dry cleaning and laundry.
   - P. Floral shop.
   - Q. Food Sales.
   - R. Furniture store.
   - S. Gift and curio shop.
   - T. Gunsmith.
   - U. Hardware store.
   - V. Hobby, craft, toy store.
   - W. Jewelry store.
   - X. Liquor store.
   - Y. Locksmith.
   - Z. Meat market.
   - AA. Music store, studio.
   - BB. Paint store.
   - CC. Pet shop.
   - DD. Photography.
   - EE. Picture framing shop.
   - FF. Reservation center.
   - GG. Restaurant.
   - HH. Thrift Shop.
   - II. Shoe store.
   - JJ. Sporting goods.

(Amended--Ord. No. 2367, 12-8-2015)

5.12.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-2 District as recommended by the Planning Commission and approved by the City Council:

1. Micro-breweries;
2. Mail order services;
3. Churches, storefront churches;
4. Charitable organizations and clubs;
5. Theaters;
6. Social clubs or fraternal organizations;
7. Convention facilities and meeting halls;
8. Child care centers;
9. Adult day care centers;
10. Bars and nightclubs;
11. Car wash;
12. Drive-in bank;
13. Mortuaries;
14. Indoor recreational facilities, health clubs, bowling centers;
15. Business or vocational training facilities;
16. Residences in conjunction with the principal use when located above the ground floor;
17. Coffee kiosks;
18. Automated Teller Machines when not within the interior of a primary use;
19. Multi-family dwellings;
20. Automobile service and repair;
21. Motels and Hotels, including restaurants, convention and meeting facilities and other related uses.

(Amended--Ord. No. 2367, 12-8-2015)

5.12.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses;
2. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed;
3. Parking as permitted in Sections 7.01-7.05;
4. Signs allowed in Chapter 109 of the Municipal Code;
5. Landscaping as required by Article 8.

5.12.05 **Permitted Temporary Uses:**

Temporary Uses require a permit from the City and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two (2) weeks per use, except as provided for hereafter.

1. Temporary greenhouses;
2. Temporary structures as needed for sidewalk and other outdoor sales events;
3. Firework stands, provided the criteria are met as established by the City through separate Ordinances;
4. Temporary structure for festivals or commercial events.

5.12.06 **Height and Lot Requirements:**

1. The height and minimum lot requirements for uses, including accessory uses, shall be as follows:

Uses	Lot Area (SF)	Lot Width (ft)	Front Yard (ft)	Side Yard (ft) *	Rear Yard (ft)*	Max. Height (ft)	Max. Lot Coverage (%)
Permitted Uses	2,500	25	0	0	0	45	100
Conditional Uses	2,500	25	0	0	0	45	100

* 10 feet when abutting a zoning district requiring a side or rear yard.

** 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

5.12.07 **Use Limitations:**

1. When adjacent to residentially zoned land, no storage, parking, drives or signs shall be within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 8.

2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

Section 5.13 C-3 Highway Commercial

5.13.01 **Intent:** This district is designed to accommodate numerous commercial uses, including those that may have significant visual or traffic impacts. It is designed for commercial uses that serve an area beyond the adjacent neighborhood. The highway commercial district is designed to promote (1) safe traffic circulation on, off and across the highway; (2) a high quality of design and site planning; and (3) flexibility in development in order to provide an attractive, viable employment corridor. This district is intended to provide for uses that serve the needs of the motoring public. Appropriate locations for these districts are along major traffic arterials. The district is also intended for large scale commercial and office park development. In addition, this district prohibits all exterior storage, except merchandise for sale to the public, unless a separate Conditional Use Permit is requested for the use and granted by the City.

5.13.02 **Permitted uses:**

The following principal uses are permitted in the C-3 District:

1. Automobile sales, including recreational vehicles and boats;
2. Car wash;
3. Construction sales and services;
4. Mail order services;
5. Indoor recreational facilities, health clubs, bowling centers;
6. Banks, drive-in banks;
7. Restaurants;
8. Theaters;
9. Offices, office parks;
10. Garden centers and nurseries;
11. Museums and art galleries;
12. Publicly owned and operated facilities, services;
13. Professional Services;
14. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including those listed in 5.12.02(9).

(Amended--Ord. No. 2367, 12-8-2015)

5.13.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-3 District as recommended by the Planning Commission and approved by the City Council:

1. Child Care Centers;
2. Adult cay care centers;
3. Educational facilities, private schools, vocational training facilities;
4. Campgrounds, subject to Section 7.14;
5. Micro-breweries;
6. Coffee kiosks;
7. Automated Teller Machines when not within the interior of a primary use;
8. Bars and nightclubs;
9. Adult entertainment establishments;
10. Churches and storefront churches;
11. Charitable organizations or clubs;
12. Convention facilities and meeting halls;
13. Social clubs or fraternal organizations;
14. Motels and Hotels, including restaurants, convention and meeting facilities and other related uses;
15. Shopping centers, commercial strip shopping centers and outlet shopping centers;
16. Temporary homeless shelter;
17. Automobile service and repair
18. Radio, television and communication towers and transmitters, as per Section 7.07;
19. Outdoor storage, subject to the following requirements:
    A. A landscape buffer shall be provided subject to the approval of the Building Official.
    B. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
    C. All outdoor storage areas shall be screened by a fence or wall or a combination of both, and shall be located to the rear of the landscape buffer.

(Amended--Ord. No. 2367, 12-8-2015- Ord. No. 2423 12-26-19)

5.13.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses, including outdoor storage containers per Section 7.17;
2. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed;
3. Parking as permitted in Sections 7.01-7.05;
4. Signs allowed in Chapter 109 of the Municipal Code;
5. Landscaping as required by Article 8.

5.13.05 **Permitted Temporary Uses:**

Temporary Uses require a permit from the City and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two (2) weeks per use, except as provided for hereafter.

1. Temporary greenhouses;
2. Temporary structures as needed for sidewalk and other outdoor sales events;
3. Firework stands, provided the criteria are met as established by the City through separate Ordinances;
4. Temporary structure for festivals or commercial events.

5.13.06 **Height and Lot Requirements:**

1. The height and minimum lot requirements, including accessory uses, shall be as follows:

Uses	Lot Area	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Permitted Uses	7,500	70	15*	10	15	60	60
Conditional Uses	7,500	70	15*	10	15	60	60

* 15 feet front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet.

5.13.07 **Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within 15 feet of such district.
2. Permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 8.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

Section 5.14 M-1 Light Industrial

5.14.01 **Intent:** It is the intent of the Light Industrial District Regulations to provide standards for areas suitable for limited industrial, commercial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties. In addition, this district prohibits all exterior storage, except merchandise for sale to the public, unless a separate Conditional Use Permit is requested for the use and granted by the City.

5.14.02 **Permitted Uses:**

The following principal uses are permitted in the M-1 District:

1. Light manufacturing operation;
2. Agriculture, excluding the expansion of existing or development of new intensive livestock confinement facilities/operations as defined in Section 2.02;
3. Automobile sales, service, and repair;
4. Mail order services;
5. Construction sales and services, construction equipment sales;
6. Building materials sales and storage;
7. Veterinary services (not including livestock), animal hospitals, kennels;
8. Industrial dry cleaning, laundry plants;
9. Farm implement/equipment sales and services;
10. Freight and truck terminals;
11. Garden centers and nurseries;
12. Printing, publishing and allied industries;
13. Public owned and operated facilities, services;
14. Warehouse and distribution;
15. Self-service storage facilities per Section 7.11;
16. Wholesale establishments, sales and services;
17. Laboratories;
18. Landscape and horticultural services;
19. Vocational training facilities;
20. Business Services.

5.14.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the M-1 District as recommended by the Planning Commission and approved by the City Council:

1. Child Care Centers;
2. Radio, television and communication towers and transmitters, as per Section 7.07;
3. Indoor recreational facility;
4. Car wash, industrial car wash;
5. Recycling centers and collection points;
6. Outdoor storage, subject to the following requirements:
   A. A landscape buffer shall be provided subject to the approval of the Building Official.
   B. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
   C. All outdoor storage areas shall be screened by a fence or wall or a combination of both, and shall be located to the rear of the landscape buffer.

5.14.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses, including outdoor storage containers per Section 7.17;
2. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed;
3. Parking as permitted in Sections 7.01-7.05;
4. Signs allowed in Chapter 109 of the Municipal Code;
5. Landscaping as required by Article 8.

5.14.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements, including accessory uses, shall be as follows:

Use	Lot Area	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Permitted Uses	10,000	80	15*	10	15	35	60
Conditional Uses	10,000	80	15*	10	15	35	60

* 15 feet front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet.

5.14.06 **Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within thirty (30) feet of such district.
2. Permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 8.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.14.07 **Performance Standards:**

See Section 7.10 of the Supplemental Regulations for performance standards.

Section 5.15 M-2 Heavy Industrial

5.15.01 **Intent:** It is the intent of the Heavy Industrial District Regulations to provide standards for areas suitable for limited industrial uses and services, including manufacturing, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties.

5.15.02 **Permitted Uses:**

The following principal uses are permitted in the M-2 District:

1. Manufacturing, processing and/or fabrication, including:
    a. Food and kindred products, limited to bakery, dairy, beverage, and sugar and confectionary products;
    b. Stone, clay, glass, and concrete products;
    c. Apparel, textile mill products, furniture and fixtures;
    d. Electronic equipment and components;
    e. Sheet metal products, heating and ventilation equipment;
    f. Millwork, veneer, plywood and structural wood products;
    g. Compounding, extruding, painting, coating and assembly of steel, metal, vinyl, plastic, paper and similar products and related outdoor and indoor storage activities.
2. Agriculture, excluding the expansion of existing or development of new intensive livestock confinement facilities/operations as defined in Section 2.02;
3. Veterinary services (including livestock), animal hospitals, kennels;
4. Blacksmithing and welding shops;
5. Building materials, storage and sales;
6. Data centers;
7. Cold storage plants;
8. Construction sales and services, construction equipment sales;
9. Building materials sales and storage;
10. Industrial dry cleaning, laundry plants;
11. Farm implement/equipment sales and services;
12. Agriculture feed and seed sales and processing;
13. Freight and truck terminals;
14. Greenhouses and nurseries;
15. Irrigation equipment sales and manufacturing;
16. Mobile and modular home sales and manufacturing;
17. Publicly owned and operated facilities, services;
18. Warehouse and distribution;
19. Wholesale sales and services;
20. Vocational training facilities;
21. Laboratories;
22. Self-service storage facility per Section 7.11;
23. Landscape and horticultural services;
24. Printing, publishing, and allied industries.

5.15.03 **Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the M-2 District as recommended by the Planning Commission and approved by the City Council:

1. Manufacturing, processing and/or fabrication, including:
    a. Food and kindred products, including meat, preserved fruits and vegetable, grain mill, fats and oils, and miscellaneous products;
    b. Meat packing plants, slaughterhouses, stockyards, rendering facilities;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
3. Grain elevators, bulk grain storage;
4. Auction sales and livestock holding pens;
5. Petroleum and natural gas refining and processing, or storage/sales of bulk petroleum products;
6. Ready-mix concrete and asphalt mix plants;
7. Junkyards and salvage yards in conformance with Section 7.12, including towing and wrecking;
8. Radio, television and communication towers and transmitters, as per Section 7.07;
9. Public and private water treatment and storage, and wastewater treatment plants;
10. Recycling centers, collection points, and plants;
11. Quarries subject to the conditions in Section 7.15;

5.15.04 **Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses, including outdoor storage containers per Section 7.17;
2. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed;
3. Parking as permitted in Sections 7.01-7.05;
4. Signs allowed in Chapter 109 of the Municipal Code.
5. Landscaping as required by Article 8.

5.15.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements, including accessory buildings, shall be as follows:

Max. Lot Coverage	Lot Area	Lot Width (ft)	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)	Max. Height (ft)	Max. Lot Coverage (%)
Permitted Uses	10,000	80	15*	10’	15’	45	70
Conditional Uses	10,000	80	15*	10’	15’	45	70

* 15 feet front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet.

5.15.06 **Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within thirty (30) feet of such district.
2. Permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 8.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
4. All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be displayed or stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise for sale to the public. However, allowable outdoor storage or display shall be visually screened from public roadways and residential properties.

5.15.07 **Performance Standards:**

See Section 7.10 of the Supplemental Regulations for performance standards.

Section 5.16 PUD Planned Unit Development (Overlay)

5.16.01 **Intent.**

The intent of the PUD District is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, and their inter-relationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

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

5.16.02 **Recommendation, findings of fact and development sizes.**

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

1. Said planned unit development shall be in general conformity with the provisions of the Lexington Comprehensive Plan.
2. Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
3. The minimum size allowed for a PUD District shall be as follows:
   A. Residential, three (3) acres;
   B. Residential – Commercial (combination), five (5) acres;
   C. Height, bulk, and setback requirements may be varied so as to promote an efficient and creative PUD District.

5.16.03 **Use regulations.**

In a PUD District no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in R-1 through R-3 Districts inclusive and the commercial districts. All uses must be approved as shown on the development plan as specified in this division.

5.16.04 **Standards and conditions for development.**

A planned unit development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, and public facilities:

1. The applicant shall have the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the City Council. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the City Council upon review and recommendation by the Planning Commission upon the showing of good cause by the developer.
2. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
3. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
4. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
5. The application for such planned unit development shall be filed jointly by all owners, if more than one.
6. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned unit

development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.

7. Off-street parking and loading shall be provided in accordance with the parking and loading regulations.
8. When a commercial use within a PUD District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way.
9. Space Limits. All space limit provisions of the primary zone to which the PUD District is appended shall be adhered to, except as modified by plans filed in accordance with the provisions of this zone. In the event the parcel lies in more than one zone, the designed layout may use the various space limits in proportion as the area of each zone relates to the entire parcel, provided that each portion developed contains a proportional share or more of the least dense development in such a manner that the space limit proportions shall be maintained in the event of less than full development. Lot area shall be at least equal to the minimum lot area per dwelling unit required in the primary zone to which the PUD District is appended, and shall also provide that no lot shall be platted with less than three-fourths (3/4) of the lot area in the primary zoning requirement. Any other space limits may be varied from those listed under the primary zone in order to satisfy the purpose of the PUD District classification. Additional space limits may be established as required and with absolute minimum space limits as follows:

Minimum front yard:	20 feet
Minimum side yard:	5 feet
Minimum rear yard:	20 feet

    Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning Commission and City Council for the protection of health, safety, and general welfare.
10. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development:

    Residential, forty (40) percent maximum;
    Commercial, sixty (60) percent maximum;

11. A minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under Section 16 below. Common open space for the leisure and recreation of PUD residents only shall be owned and maintained in common by them, through a homeowner's association.
12. The PUD District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to ensure its continuity, care, conservation, and maintenance, and to ensure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community.
13. No residential use shall have direct access onto an arterial street.
14. All commercial areas must have access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets, unless developed as a pad site within the overall development.
15. Sidewalks shall be built to City specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the planned unit development.
16. Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants in common by a homeowner's, condominium's, or resident's association.
17. When a developer intends to design a new concept development, the Planning Commission and City Council may grant lesser front, side, and rear yard setbacks, including zero (0) lot line setbacks.
19.

5.16.05 **Application for approval of Preliminary PUD.**

1. An application for a PUD shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.

2. The applicant shall prepare and submit an electronic copy of the preliminary development plan for review and approval by the Planning Commission. Said preliminary shall include a site plan showing:
   A. Contours at intervals of two (2) feet or spot elevations on a one hundred foot grid shall be required on flat land;
   B. Location, size, height, and use of all proposed structures in conformance with the yard requirements;
   C. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
   D. All streets adjoining subject property and the width of the existing right-of-way;
   E. Areas set aside for public and private open space with the type of recreational facilities planned for each are indicated;
   F. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
   G. Designation of individual lots if such lots are proposed to be sold to individual owners;
   H. Location of required screening;
   I. Location of natural features such as ponds, tree clusters, and rock outcropping;
   J. Existing development on adjacent properties within two hundred (200) feet.

3. The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when, said items are applicable:
   A. Net area in square feet or acres. (*Note:* Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)
   B. Density of dwelling units per acre of the total dwelling units for the entire plan.
   C. Building coverage of the net area of the planned unit development by individual parcel or total development.
   D. The percentage of the development plan provided for common open space as defined by this regulation. (*Note:* Normally, this figure should be approximately fifty (50) percent.)
   E. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
   F. Required number of off-street parking spaces.
   G. Gross floor area proposed for commercial buildings.
   H. All proposed land uses shall be listed by parcel.

4. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
5. The full legal description of the boundaries of the property or properties shall be included in the planned unit development.
6. A vicinity map, shall be included, showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.
7. A description, rendering or drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
8. When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
9. Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
10. The Planning Commission shall hold a public hearing on the preliminary PUD after the PUD has been reviewed by City of Lexington staff after giving notice as required by Statute for hearings in amendments.
11. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the preliminary plan complies with those regulations, together with its recommendations in respect to the action to be taken on the preliminary PUD. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.
12. The City Council may or may not approve the preliminary development plan and authorize the submitting of the final development plan.
13. Substantial or significant changes in the preliminary PUD shall only be made after rehearing and re-approval.

5.16.06 **Final approval.**

1. After approval of a preliminary plan and prior to the issuance of any building permit, the applicant shall submit an application for final approval with City staff. Said final application may include the entire PUD District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include an electronic copy of such drawings, specifications, covenants, easements, conditions, and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in this Ordinance for a PUD District. The final plan shall include the same information as the preliminary plan except the following shall also be provided:
   A. A surveyor's certificate certifying to the accuracy of the boundary surveys shown;
   B. Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
   C. All easements and appropriate building setback lines;
   D. All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
   E. Lot and/or parcel numbers;
   F. Location, size, height, and use of all proposed or present buildings;
   G. Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property;
   H. A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established;
   I. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the plan by the landowner is tentatively approved does not:
      (1) Vary the proposed gross residential density or intensity of use by more than five (5) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
      (2) Increase by more than ten (10) percent the floor area proposed for non-residential use; nor
      (3) Increase by more than five (5) percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
      (4) Substantially change the design of the plan so as to significantly alter:
         (a) Pedestrian or vehicular traffic flow.
         (b) The juxtaposition of different land uses.
         (c) The relation of open space to residential development.
         (d) The proposed phasing of construction.
         (e) Proposed use of one or more buildings to a more intensive use category as delineated in this Ordinance.
2. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan. The Planning Commission shall review the final plan for compliance, upon review and comment by the City of Lexington staff, with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
3. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this division as for original approval.

5.16.08 **Enforcement and modification of plan.**

To further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the PUD plan, as finally approved, and to ensure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:

1. The provisions of the plan relating to:
   A. The use of land and the use, bulk, and location of buildings and structures; and
   B. The quality and location of common space; and

C. The intensity of use or the density of residential units shall run in favor of the City and shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law.

2. All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or equity by said residents and owners acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved and have been recorded.

5.16.09 **Amendments.**

The PUD District ordinance or an approved preliminary or final development plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment may be made by the homeowner's association or fifty-one (51) percent of the owners of the property within the PUD District.

Section 5.17 FF/FW Flood Plain (Overlay)

5.17.01 The flood plain and floodway regulations for the jurisdiction of the City of Lexington are located in Chapter 105 of the Lexington Municipal Code.

Section 5.18 AH Airport Hazard (Overlay)

5.18.01 **Intent**

This district is established as an overlay district for application over any primary zoning district within 10 statute miles in all directions from the adjacent boundaries of the Lexington Airport which is located within the planning and zoning jurisdictional area of Lexington, Nebraska. The location, boundaries, zones and height restrictions within this overlay district described hereafter are intended to provide airspace protection within the Airport Hazard Area of the Lexington Airport and protect the public investment and utility of the airport.

5.18.02 **Definitions**

For purposes of the Airport Hazard Overlay, the following terms are defined:

1. Airport means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.
2. Airport Hazard means any structure or tree or use of land that penetrates any approach, operation, transition, or turning zone.
3. Airport Hazard Area means any area of land or water upon which an airport hazard might be established if not prevented as provided in the act, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.
4. Airport Layout Plan means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.
5. Approach Zone means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines. Approach zone dimensions are as follows:
   A. For an existing or proposed instrument runway:
      i. *Length and Width.* An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the zone nearest the runway and expands uniformly to 16,840 feet wide at the farthest end of the zone; and
      ii. *Height Limit.* The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 50 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one (1) foot vertically for every 50 feet horizontally and continues to the ten-mile limit.
   B. For an existing or proposed visual runway:
      i. *Length and Width.* An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide; and
      ii. *Height.* The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every 40 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at that runway end.
6. Electric Facility means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Section 70-1001.01, R.R.S. 1943, for the transmission or distribution of electrical power to the electric supplier's customers.
7. Existing Runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or in under construction.
8. Height of Structure means the height of any building, structure or object measured from its highest point to the nearest existing or proposed runway end elevation.
9. Instrument Runway means an existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After September 6, 2013, an airport shall not designate an existing or proposed runway as an instrument

runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

10. Operation Zone means a zone that is longitudinally centered on each existing or proposed runway. Operation zone dimensions are as follows:
    A. *Length.* For existing and proposed paved runways, the operation zone extends two hundred feed beyond the ends of each runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends;
    B. *Width.* For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline; and
    C. *Height.* The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.
11. Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.
12. Political Subdivision means any city, village, or county.
13. Proposed Runway means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.
14. Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.
15. Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.
16. Transition Zone means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.
17. Tree means any object of natural growth.
18. Turning Zone's Outer Limit means the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.
19. Visual Runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

5.18.03 **Hazard Area Description**

The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed runways or landing strips.

5.18.04 **Zone Descriptions**

1. The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip, and two hundred (200) feet beyond the end of each runway, and shall be one thousand (1,000) feet in width for each instrument runway or landing strip, and five hundred (500) feet in width for all other runways and landing strips.

2. The Approach Zones shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of thirty (30) feet of width for each one hundred (l00) feet of horizontal length for the instrument runway or landing strip, and twenty (20) feet of width for each one hundred (100) feet of horizontal length for all other runways.

   The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide

angle with a plane one hundred fifty (150) feet above the highest elevation of the end of the respective runway or landing strip.

The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.

3. The Transition Zones shall be the areas bounded by the Operation Zones of the hazard area, the sides of contiguous inner areas of the Approach Zones and the outer limits of the Transitional Zones; said outer limits of the Transitional Zones being the intersections, at elevations of one hundred fifty (150) feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zones of the hazard area and the edges of adjacent inner areas of Approach Zones; said planes rising from their respective bases along lines perpendicular to the centerline of the runway or landing strip at the rate of one (l) foot vertically to seven (7) feet horizontally to the lines of intersection previously referred to.

4. The Turning Zones shall comprise all portions of the hazard area not contained in the Operation Zones, Approach Zones and in the Transitional Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of 10 statute miles from the nearest points along the airport boundary lines.

5.18.05 **Height Restrictions**

No building, transmission line, communication line, pole, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:

1. In Inner Areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing strip in excess of one-fiftieth (l/50), and all other runways or landing strips in excess of one-fortieth *(1/40)* of the distance from the end of the Approach Zone (the end nearest the runway or landing strip) to said structure or object;

2. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally and continues to the ten-mile limit. As such, in the three-mile Outer Area of the Approach Zones and in Turning Zones the height limit is one hundred fifty (150) feet and in the ten-mile Approach Zone the height limit is approximately nine hundred (900) feet;

3. In the Transition Zones to a height above the planes forming the transition slopes; and

4. In the existing or proposed Operation Zones to a height above the existing or proposed finished grade of said runways or landing strips or surface of the ground.

5.18.06 **Location Sketch and Zoning Map**

The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Lexington Airport are as indicated on the Airport Zoning Map and represented on the Lexington Official Zoning Map, which accompanies and is hereby made a part of these regulations, a copy of which shall at all times be on file in the office of the City Clerk of Lexington, Nebraska.

5.18.07 **Permit Required, Exceptions, Applications and Permit Fees**

1. Permit Required:
   It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character, or to plant or replant any tree or other object of natural growth which, when mature, would violate the requirements of these regulations within the boundary of the zoned Airport Hazard Area of the Lexington Airport without first obtaining a building permit.

2. Exceptions:
   In the outer area of Approach Zones and within Turning Zones, no such permit shall be required for construction or planting that is no higher than seventy-five (75) feet above the elevation of the end of

the nearest runway or landing strip, except for any permits required by other sections of these Regulations.

3. Application Forms:
   Application for a building permit as required under these regulations shall be made upon a form or forms to be available in the office of the Building Official and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip, and height of the proposed structure or planting (Mean Sea Level Elevation).

4. Permit Fees:
   The fee for each building permit shall be the normal fee charged by the City plus any other additional fees determined by the City.

5.18.08 **Non-conforming Uses and Structures**
Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations where adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of fifty (50) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated airport hazard zone.

5.18.09 **Marking of Non-Conforming Structures**
Whenever the Building Official shall determine, or shall be notified by the Nebraska Department of Aeronautics, that a specific non-conforming structure or object exists, and has existed prior to the passage of these regulations, and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Building Official and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Building Official as is based on recommendations of the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lesser of said premises.

5.18.10 **Administrative Agency**
The Building Official of Lexington, Nebraska, shall administer and enforce these regulations, and shall be the administrative agency provided for in Neb. Rev. Stat. Section 3-3 19, (Reissued 2007), and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the City.

5.18.11 **Board of Adjustment**
The Board of Adjustment of Lexington, Nebraska, shall be the Board of Zoning Adjustment with respect to these regulations, to have and to exercise the powers conferred by Neb. Rev. Stat. Section 3-320, et. Seq. (Reissued 2007), and such other powers and duties as are conferred and imposed by law.

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

Section 5.19 WP Wellhead Protection (Overlay)

5.19.01 **Intent**
The intent of this district is to protect the public water wells in the jurisdiction of Lexington. In order to provide protection for such wells, and maintain the health, safety, and general welfare of Lexington residents, the regulation of land uses having the potential for contamination of groundwater sources is necessary within a specified boundary area surrounding said wells. The Wellhead Protection Plan has identified the area of protection. An area used in the plan includes is the area delineated by the Nebraska Department of Health and Human Services. This area is required by Title 179 of the Nebraska Administrative Code to protect the municipal water supply from microbiological contamination within a calculated one (1) year time of travel for groundwater flow. Other areas include areas within a twenty-four (24) hour time of travel for surface water, areas near the well field where surface run-off can have a significant potential for surface contamination, and areas where development review and control is necessary to ensure proper control of run-off. The Wellhead Protection Overlay District establishes performance standards to protect the integrity of Lexington's well fields including regulations related to the ability of contamination in the area to affect the quality of the City's water supply.

5.19.02 **Prerequisite Requirements for Application of this District**
Prior to making such application and approval of any application of this district to any lands within the City by the City Council, the City shall first comply with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-1505 through 46-1509). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone;

2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality;

3. Completion and mapping of an inventory or potential contamination sources within the Wellhead Protection Area;

4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area;

5. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program;

6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the wellhead Protection Area.

5.19.03 **Limitation on Application of this District**
This district may be applied only to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality. In the event the boundaries of any such officially approved Wellhead Protection Areas do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-field determination of such boundaries.

5.19.04 **Amendment of Official Zoning Map**
Whenever the requirements of Section 5.19.02 of this Article have been complied with and the City Council has approved the application of this overlay zoning district on land with the City, in accordance with the procedures for amendment of the Official Zoning Map set forth in this Ordinance, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

5.19.05 **Allowable Uses and Structures**
Any use or structure indicated as a permitted use, a conditional use, or an accessory use in the primary zoning district to which this overlay district is applied shall be allowed or permitted in accordance with the zoning requirements of the primary zoning district, except when specifically prohibited by Section 5.19.07 of this Article, and provided all such uses further comply with the additional wellhead protection restrictions set forth in Section 5.19.08 of this Article.

5.19.06 **Minimum Lot Requirements**
The minimum lot requirements as set forth on the primary zoning district shall apply within this overlay district, according to the location of each primary zoning district. Such requirements include lot area, lot width and frontage, setback requirements, and height restrictions.

5.19.07 **Prohibited Uses and Structures**
All other uses and structures which are not permitted in the underlying district either as a permitted use, accessory use or conditional use are prohibited. Furthermore, the following uses and /or structures shall be specifically prohibited:

1. The expansion of existing or development of new livestock confinement facilities/operations of more than 200 head total or greater than those numbers of livestock permitted in the A-1 and A-2 Districts without a Conditional Use Permit;

2. The expansion of livestock auction sale yards;

3. Sludge and waste application and stockpiling from livestock operations or municipal waste;

4. Landfills and other types of waste handling facilities;

5. Commercial mines, quarries, sand and gravel pits.

6. Commercial or industrial uses which utilize or generate any materials determined by the United States Department of Environmental Protection as hazardous materials, including commercial or industrial uses which store petroleum products, agricultural chemicals, anhydrous ammonia or other fertilizers in excess of fifty (50) gallons.

5.19.08 **Wellhead Protection Restrictions**
The following restrictions shall apply to uses within any area of land on which this overlay district is applied:

1. The expansion of existing or development of new livestock confinement facilities/operations of 200 Head or less shall conform to the requirements of Sections 5.05.

2. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or in association with another land use, shall comply with the rules and regulations of Titles 126 and 159, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. Storage of gasoline or diesel fuel in excess of one-thousand one-hundred (1,100) gallons per aboveground storage tank or five hundred (500) gallons per underground storage tank, or two-thousand five-hundred (2,500) gallons total of all tanks shall be prohibited, except when a special exception use for a commercial or industrial use is authorized. In any such authorization, a condition of approval shall be compliance with the rules and regulations of such Titles 126 and 129.

3. Fuel storage associated with irrigation well motors shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30 and with Title 126, administered by the Nebraska Department of Environmental Quality, in the event of a fuel release.

4. No fuel storage, except when associated with Item 3 (above) shall be permitted within one-thousand (1,000) feet of any water well protected under this overlay district.

5. No septic tank or tile field or waste lagoon, or man-made or constructed earthen water storage (including irrigation re-use pits) associated with any residential, commercial, industrial, agricultural, or other type of use shall be permitted within one-thousand (1,000) feet of any water well protected under this overlay district.

6. Any development must be connected to City water services if such services are available within five hundred (500) feet of the site. If a connection is impossible, all new wells shall be installed in accordance with Title 178 of the Nebraska Administrative Code. Well installation further requires the approval of both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.

7. Domestic, irrigation and any other water well shall not be located closer than one-thousand (1,000) feet to any water well protected under this overlay district.

8. All storage tanks permitted by Section 5.19.08 shall be operated safely and maintained in an operable and serviceable condition and meet all Department of Environmental Quality and Fire Marshall's regulations. All storage tanks with a capacity of at least three hundred (300) gallons shall receive a Storage Tank Permit before being place into service.

9. Storage of fertilizers, herbicides, pesticides and other materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except when a special exception use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118, 121, 126, 128, 159 and 198, administered by the Nebraska Department of Environmental Quality and other agencies.

10. Any application of fertilizers, pesticides, or herbicides to the land or crops through an irrigation system (chemigation) shall comply with the rules and requirements of Title 195.

11. If any land area contained within a wellhead protection overlay district is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the local Natural Resources District(s).

12. Surface water run-off shall be contained within the boundaries of any proposed development.

5.19.09 **Conditional Use Permits**

Uses identified herein may be used or expanded in the WHP Wellhead Protection District if a Conditional Use Permit for such use has been obtained pursuant to the following provisions:

1. Compliance with Article 6: The Conditional Use Permit provisions of Article 6 must be complied with.

2. Municipal Review: The Planning Commission and governing body shall be notified by the Building Official of any application for a Conditional Use Permit within the respective wellhead protection area.

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions

The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

Section 6.02 Application for Conditional Use Permits

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 Planning Commission Public Hearing

Before any proposal for a conditional use permit is considered by the City Council, the Planning Commission shall conduct a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Lexington, one time at least 10 days prior to such hearing and either notice posted on the property or mailed to property owners within 300 feet at least 10 days prior to such hearing.

Section 6.04 City Council Public Hearing

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Lexington, one time at least 10 days prior to such hearing and either notice posted on the property or mailed to property owners within 300 feet at least 10 days prior to such hearing.

Section 6.05 Decisions

A majority vote of the Council shall be necessary to grant a conditional use permit. Approved conditional use permits shall be in the form of a conditional use agreement signed by owner and City outlining the specific conditions placed upon the use by the City Council. The applicant shall have 12 months from the approval of the conditional use permit to commence the use, unless an extension is granted according to Section 6.05.01. If the use stated within the conditional use permit has not been commenced within 12 months, or approved time period, said permit shall become invalid and any activity shall be required to apply for a new conditional use permit. All decisions by the City Council and the recommendations of the Planning Commission shall be required to provide findings of fact for their decision for either approval or denial.

6.05.01 The Building Official has granted an additional six month administrative extension provided:

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

Section 6.06 Transferability

Any approved conditional use permit is automatically transferable upon sale of the property from the original applicant to another party. However, the new owner shall assume the responsibility for complying with:

6.06.01 The conditions of the permit;

6.06.02 The use shall not change or be expanded unless a new conditional use permit is approved; and

6.06.03 Failure to comply with the conditions of the permit shall subject the new owner to the revocation process of this Article.

Section 6.07 Revocation

Any approved conditional use permit may be revoked for failure to comply with the conditions approved by the City Council. Revocation shall require that the City notify the applicant of any noncompliance, in writing, and provide the applicant 30 days to correct the issue(s).

Failure to comply with the notice shall cause a public hearing to be scheduled by the City Council, to review the permit and the approved conditions and the failure to act by the applicant. If the applicant is found to be noncompliant with the issued permit and conditions, the City Council shall revoke the permit and order the use to cease and desist.

Failure to follow a cease and desist order shall cause action to be filed the City Attorney in District Court.

Revocation may also occur, if the City documents that the use has ceased operations for 12 consecutive months. The City shall notify the applicant of the revocation in writing. The permit shall be invalid within 30 days.

Section 6.08 Standards

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

6.08.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort or general welfare of the community.

6.08.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.

6.08.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.

6.08.04 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

6.08.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

6.08.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

6.08.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

6.08.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

6.08.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

6.08.010 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6.08.011 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 Off-Street Automobile Parking or Storage

7.01.01 Off-street automobile storage or parking spaces shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available for any given use not listed in Section 7.02, the ratio of one parking space per 250 square feet of gross floor area shall be used. The following are the minimum requirements for specific uses:

1. Dwellings - Two (2) spaces for each dwelling unit.
2. Tourist Accommodations - One (1) space for each room offered for tourist accommodations.

7.01.02 If vehicle storage space or parking space required in Section 7.01.01 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Building Official, the Building Official may permit such space to be provided on other off-street property, provided such space lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

7.01.03 All driveways, circulation areas, and off-street automobile parking areas in residential zoned districts shall be paved with concrete, asphalt or asphaltic concrete.

7.01.04 All driveways, loading areas, circulation areas, display areas, and off-street automobile parking areas in commercial zoned districts shall be paved with concrete, asphalt or asphaltic concrete. Storage areas may be surfaced with an approved aggregate per the Building Official.

7.01.05 All driveways, loading areas, and off-street automobile parking areas in industrial zoned districts shall be paved with concrete, asphalt, or asphaltic concrete. Circulation, storage, and display areas may be surfaced with an approved aggregate per the Building Official.

7.01.06 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

7.01.07 In residential districts, required off-street parking shall be provided on the same lot that the use is located on. In other Districts, such parking may be provided either on the same lot, or an adjacent or other lot, provided the lot on which the use requiring them is located is not separated by more than 300 feet at closest points, measured along a street or streets.

7.01.08 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.

7.01.09 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (example: primary schools may require tabulation for classrooms and assembly areas).

7.01.10 In the C-2 Downtown Commercial District, off-street parking shall not be required, except for those permitted or conditional uses that involve large assemblies or overnight parking, such as churches, motels, hotels, auditoriums, and residential uses. In this district, when off-street parking is required, on-street parking adjacent to the use may be computed so as to be included in the total required off-street parking.

7.01.11 For Public Uses within a Residential District, on-street parking within 400 feet of the use may be computed so as to be included in the total required off-street parking, except apartments.

7.01.12 Storage of recreational vehicles shall be consistent with Section 4.23.

7.01.13 Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances as provided below:

TYPES OF OPERATION	MINIMUM STACKING SPACE
Financial Institution – Electronic Teller	Two vehicles per lane*
Financial Institution – Personal Teller	Three vehicles per window or kiosk*
Car Wash – Self Service	Two vehicles per bay at entrance*
	One vehicle per bay at exit
Car Wash – Automatic / Conveyor	200 feet per bay at entrance*
	One vehicle per bay at exit
Drive-through Restaurant	Four vehicles per window*
Coffee Kiosk	
- Drive side service	Four vehicles per lane*
- Passenger side service	Two vehicles per lane*
Drive-through Pharmacy	Two vehicles per lane*
Service Stations	
- Service Islands	Two vehicles per pump lane*
- Service bay	One vehicle per bay*
- Quick lube / Oil change "starting gate design"	Two vehicles per bay*
- (4 or more pump islands side by side, 18 feet apart	One vehicle per lane*
Gated parking lot entrance	One vehicle per gate
Garage Unit or Overhead door (Major streets only)	One vehicle per door
Other uses	Two vehicles per lane being serviced

* Stacking requirements are in addition to vehicle being served.

7.01.14 Required vehicle stacking shall not block driveways or required parking stalls and shall not be located in side, front, or rear yards where parking stalls are prohibited. Each vehicle stacking unit shall be 22 feet long. Required stacking may be reduced by approval of the City Council following site plan review by the Planning Commission. Site plan review must demonstrate that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during peak hours of operation.

7.01.15 Requirements for types of buildings and uses not specifically listed herein shall be determined by the Building Official, after receiving a report and recommendation from the Building Official, based upon comparable uses listed.

Section 7.02 Schedule of Minimum Off-Street Parking and Loading Requirements

Use	Parking Requirements
Adult entertainment establishments	One space per two persons of licensed capacity
Agricultural Sales / Service	One space per 500 s.f. of gross floor area
Amusement Arcades	One space for each 100 s.f. of gross floor area, in addition to one space for each employee on the max. shift
Animal Specialty Services	One space per 300 sq. ft. of gross floor area
Assisted Living Facilities	One space per dwelling unit plus one space per employee on the largest shift
Automotive Rental / Sales	One space per 500 s.f. of gross floor area
Automotive Repair Services	Three spaces per repair stall
Bars, Taverns, Nightclubs	Parking equal to 30 percent of licensed capacity
Boarding Houses / Bed and Breakfasts	One space per rental units
Bowling Alleys	Four spaces per alley
Campground	One space per camping unit
Churches, Synagogues, and Temples	One space per three seats in main worship area
Social Clubs, fraternal organizations	One space per 500 s.f. of gross floor area
College/University	Eight spaces per classroom plus one space per employee
Commercial Recreation	One space per three persons of licensed capacity
Communication Services	One space per 500 s.f. of gross floor area
Construction Sales / Service	One space per 500 s.f. of gross floor area
Convalescent and Nursing Home Services	One space per three beds plus one per employee on the largest shift
Convenience Store with limited fuel sales	One space per 200 s.f. of gross floor area; spaces adjacent to fuel pump are included in total number
Day Care (Child Care Center)	One space per employee plus one space or loading stall per each ten persons of licensed capacity
Duplex	Two spaces per dwelling unit

Educational Uses, Primary facilities – Kindergarten, Elementary School, Junior High	Two spaces per classroom
Educational Uses, Secondary facilities –High School	10 spaces per classroom plus one space per employee
Equipment Rental / Sales	One space per 500 s.f. of gross floor area
Food Sales (general)	One space per 200 s.f. of gross floor area
Food Sales (limited)	One space per 300 s.f. of gross floor area
Funeral Homes and Chapels	Eight spaces per reposing room
General Retail Sales establishments	One space per 200 s.f. of gross floor area
Group Care Facility	One space per four persons of licensed capacity
Group Care Home	One space per four persons of licensed capacity
Guidance Services	One space per 300 s.f. of gross floor area
Health Club	One space per 200 s.f. of gross floor area, plus one space for each employee on peak shift.
Hospitals	One space per two licensed beds
Hotels and Motels	One space per rental unit, plus one space per employee on largest shift.
Industrial Uses and Light Industrial	.75 times the maximum number of employees during the largest shift.
Laundry Services	One space per 200 s.f. of gross floor area
Libraries	One space per 500 s.f. of gross floor area
Medical Clinics	Five spaces per staff doctor, dentist, chiropractor
Mobile Home Park	Two per dwelling unit
Multi-family / Apartments / Condominiums	One and a half spaces per bedroom for efficiencies and one bedroom units, otherwise one space per bedroom Note: This does not include detached garages.
Offices and Office Buildings	One space per 200 s.f. of gross floor area
Recreational Facilities	One space per four occupants or, in the case of a nonstructural facility, one space per four persons the facility is intended to accommodate.
Residential (Single-family, attached and detached)	Two spaces per dwelling unit with one required to be enclosed
Restaurants (General)	Parking equal to 30 percent of licensed capacity
Restaurants w/ drive-through	Greater of the two: One space per 40 s.f. of dining area, or one space per 150 s.f. of gross floor area; plus five staking spaces for drive-thru window.
Roadside stands	Four spaces per stand
Service Oriented Establishments	One space per 200 s.f. of gross floor area
Special and Vocational Training	One space per 500 s.f. of gross floor area
Theaters, Auditoriums, and Places of Assembly	One space per three persons of licensed capacity
Veterinary Establishments / Pet Health Services	Three spaces per staff doctor
Warehousing	One per 2,000 s.f. of gross floor area
Wholesaling / Distribution Operations	One space per two employees on the largest shift

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

Section 7.03 Off-street Parking: Shared Parking Requirements

7.03.01 Notwithstanding the provisions of Section 7.02, in cases of shopping centers having 400,000 or more square feet of gross floor area and where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the Building Official after a recommendation by the Planning Commission.

7.03.02 Where convention centers, conference centers, assembly halls, ballrooms, or other similar facilities are built in conjunction with a hotel, office park, or shopping center, the Building Official, after receiving a recommendation from the Planning Commission may permit the construction of fewer parking spaces, due to overlapping usage of a portion of the parking spaces. Said request for a decrease in parking spaces.

Section 7.04 Off-Street Parking: Parking for Individuals with Disabilities

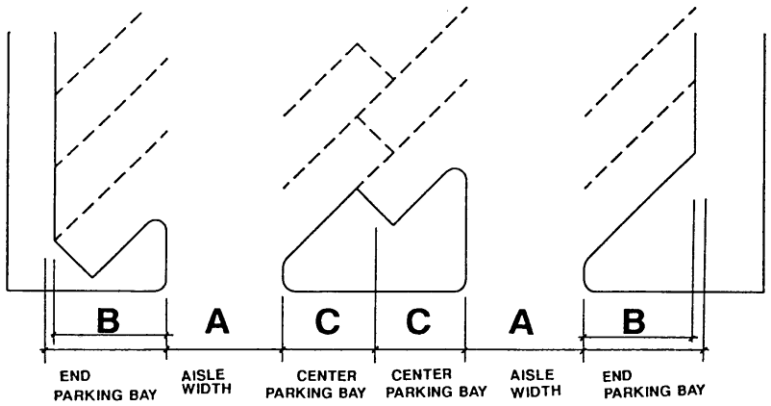
7.04.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with such guidelines.

Section 7.05 Off-Street Parking Design Criteria

7.05.01 Standard parking stall dimensions shall not be less than nine feet by 20 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration

	90-degree	60-degree	45-degree
Aisle Width (A)			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width (B)			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
Center Parking Bay Width (C)	18 feet	18 feet	16 feet



7.05.02 Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.

7.05.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the Building Official and City Engineer.

Section 7.06 Home Occupations

The following are the minimum standards required for a Home Occupation:

7.06.01 No exterior displays, or a display of goods or chattels visible from the outside, or exhibit greater than one square foot in size on the premises by any method or device whatsoever or any manner which would indicate from the exterior that the dwelling unit or accessory building is being utilized in whole or in part as a home occupation.

7.06.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.

7.06.03 No more than 20 percent of the total floor area of a dwelling unit and in no event more than 300 square feet of floor area can be used for the home occupation. This percentage is inclusive of any detached accessory buildings used for Home Occupations.

7.06.04 Home occupations shall employ no more than one part-time employee on-site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by the non-resident employee. Such occupation shall employ no full-time employee other than the residents of the dwelling unit.

7.06.05 No retail sales are permitted from the site other than incidental sales related to services provided.

7.06.06 No storage of materials or goods or chattels, or any parts outside of a principal or accessory building or other structure is permitted.

7.06.07 Additional off-street parking may be required for the business.

7.06.08 If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way.

Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.

7.06.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

7.06.10 Family Child Care Homes and Child Care Centers shall require a certificate signed by the State of Nebraska Fire Marshall.

7.06.11 All activities within a home occupation must be able to operate on normal household utilities including electricity.

7.06.12 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R. R. S. 1943, Sec. §71-1902. All business related to Adult Care Centers shall be in accordance with all applicable state statues.

Section 7.07 Wireless Communication Towers

7.07.01 **Intent**

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

7.07.02 **Definitions**

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

1. **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
3. **APPLICANT** shall mean any person that applies for a Tower Development Permit.
4. **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.
5. **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this ordinance.
6. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
7. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and

supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

10. **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
    1. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate zoned A-1, A-2, C-2, C-3, M-1, or M-2.
    2. Any earth station antenna or satellite dish antenna of one meter or less in diameter, regardless of zoning applicable to the location of the antenna.
12. **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon recommendation of the Planning Commission and approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest. A tower development permit shall follow the same procedure as a conditional use permit and be administered the same.
14. **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

7.07.03 **Location of Towers and Construction Standards**

1. Towers shall be permitted by conditional uses of land in only those zoning districts where specifically listed and authorized in this ordinance.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Building Official and shall pay a filing fee in accordance with the fee schedule established by the city.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this ordinance shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Building Official.

7.07.04 **Application to develop a Tower**

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

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.

5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

7.07.05 **Tower Development Permit, Procedure**

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

7.07.06 **Setbacks and Separation or Buffer Requirements**

1. All towers up to 50 feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
   A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
   B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

7.07.07 **Structural Standards for Towers Adopted**

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

7.07.08 **Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300 percent of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.

2. All self-supporting lattice or guyed towers shall be enclosed within a security fence of at least six feet in height or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

7.07.09 **Exterior Finish**

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

7.07.10 **Landscaping**

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

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

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

7.07.12 **Inspections**

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

7.07.13 **Maintenance**

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

7.07.14 **Abandonment**

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

7.07.15 **Satellite Dish Antennas, Regulation**

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

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

7.07.16 **Amateur Radio Towers and facilities, Regulation**

All amateur radio antennas, towers, and associated facilities not in compliance with the provisions for accessory structures within individual zoning districts shall comply with the standards of Section 7.07.

Section 7.08 Keeping of Animals and Livestock

Animals and livestock may be kept within the zoning jurisdiction of the City of Lexington subject to the provisions and restrictions provided in this ordinance and Chapter 6 of the Lexington Municipal Code.

Section 7.09 Solar Panels

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

7.09.01 Lot and Height Requirements: Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:

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

7.09.02 Structural Requirements: The physical structure and connections to existing structures shall conform to the applicable Lexington building codes.

7.09.03 Plot Plan: The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

7.09.04 Pre-existing Solar Panels: Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to September 18, 1985, pursuant to a valid building permit issued by the City, may continue to be utilized so long as it is maintained in operational condition.

Section 7.10 Performance Standards for Industrial Uses

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

7.10.01 **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Lexington.

7.10.02 **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume or in excess of eighty (80) decibels, whichever is greater. Noise shall be measured at the property line and when the level of

such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

7.10.03 **Exterior Lighting:** Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas and public right-of-ways.

7.10.04 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge of waste into a storm sewer, water course, or the ground; nor should any liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations be dumped into wastewater sewerage.

7.10.05 **Air Contaminants:**

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this ordinances.
5. **Gasses:** The gasses sulfur dioxide, hydrogen sulfide or carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
6. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
7. **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

Section 7.11 Self Storage Units / Convenience Storage Units

7.11.01 Minimum lot size of the self-storage facility shall be two acres.

7.11.02 Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.

7.11.03 All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.

7.11.04 All storage must be within enclosed buildings and shall not include the storage of hazardous materials.

7.11.05 No storage may open into the front yards.

7.11.06 Facilities must maintain landscape buffer yards in accordance with Section 8.

7.11.07 Height limitations shall require a maximum height of 20 feet for any structure in the facility.
7.11.08 The perimeter of each facility shall be fully enclosed by fencing or screen walls. Perimeter fencing shall be provided at a minimum of six feet and maximum of eight feet in height, of material approved by the Building Official. Fencing shall be constructed behind required buffer yards.

Section 7.12 Junk Yards and Salvage Yards

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

Section 7.13 Reserved

Section 7.14 Requirements for Campgrounds

A Conditional Use Permit may be granted for the development and operation of a campground in a designated zoning district; provided the following special conditions are met:

7.14.01 Every campground shall have a minimum of ten spaces for recreational vehicles.
7.14.02 Spaces shall be at least 50 feet by 20 feet, spaces for tents may be smaller.
7.14.03 A campground shall provide a source of potable water and a disposal station for sewerage.
7.14.04 A campground shall maintain a register showing the name, address, vehicle license number, and date of arrival and departure from the campground for each user, and such register shall be retained at least 180 days and shall be available 24 hours for inspection.
7.14.05 The campground shall not allow occupancy in excess of 30 days in one calendar year.
7.14.06 All drives and circulation areas may be either paved or surfaced with an approved aggregate per the Building Official. Additionally, all drives shall be well-drained and constructed in a manner approved by the Building Official.
7.14.07 Illumination of walkways and drives are required.

Section 7.15 Sand and Gravel, Mineral, Stone, Rock, and Soil Extraction and Quarries

A Conditional Use Permit may be granted for the development and operation of a quarry in a designated zoning district; provided the following special conditions are met:

7.15.01 The application shall include a grading map showing contours, proposed excavation contours, and proposed final grade contours;
7.15.02 The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties;
7.15.03 The application shall identify proposed vehicle and equipment storage areas;
7.15.04 Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land;
7.15.05 The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility;
7.15.06 Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
7.15.07 Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
7.15.08 Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

Section 7.16 Waste Disposal Sites and Landfills

A Conditional Use Permit may be granted for any waste material disposal, garbage disposal, or land fill operations in a designated zoning district; provided the following special conditions shall be considered:

7.16.01 The effects on the adjacent property and traffic;

7.16.02 .....THE PUBLIC NECESSITY AND ADVANTAGE;

7.16.03 The maintenance of access routes related to all weather conditions and droppings of rubbish and litter;

7.16.04 The effects on underground water quality;

7.16.05 The immediate and long term effects on the environment and the public;

7.16.06 The concerns for public safety;

7.16.07 The application shall include documents to indicate conformance to all applicable governmental regulations and standards.

The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

Section 7.17 Outdoor Storage Containers

Outdoor storage containers may be used as accessory uses in designated districts provided the following conditions are met:

7.17.01 Outdoor Storage Containers

1. Number: Outdoor storage containers are limited to two containers per business or property in the A-1, A-2, C-3, M-1 and M-2 districts.
2. Location: Containers shall be located to the rear 50 percent of the site. Containers shall not be located in any required setback or yard area, required landscape area, required circulation area, driveway, or parking area. Containers shall not encroach upon spaces necessary to satisfy the minimum parking requirement, nor shall they block, impede, or divert traffic in or access to emergency, snow removal, circulation and fire lanes. Containers shall not be stacked upon one another and shall be located an appropriate distance from all structures, in accordance with the Fire Code.
3. Condition: The exterior of the storage containers shall be kept free of rust, holes, dents, or other corrosion and shall be painted or otherwise maintained such that they are consistent with the character of adjacent buildings, and secured at all times.
4. Use: At no time shall an outdoor storage container be used as a place of business or residence, nor shall a container house, store, or contain goods, products, or materials other than those that are accessory and essential to daily on-site use and operation of the principal building or business requesting the conditional use permit.
5. Exemptions: The temporary use of construction trailers or containers at a building site is exempt from this requirement.

Section 7.18 Signs

Signs are permitted within the zoning jurisdiction of the City of Lexington subject to the provisions and restrictions provided in Chapter 109 of the Lexington Municipal Code.

Section 7.19 Bed and Breakfast

7.19.01 Bed and Breakfast uses are subject to the following minimum conditions:

1. The bed and breakfast residence shall be within a conforming single-family dwelling.
2. Lodging rooms shall be within the principal residential building only and not within an accessory building.
3. Each lodging room that is designated for guest occupancy must be provided with a smoke detector that is kept in good working order.
4. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each lodging room designated for guests. Such parking areas shall not be within the required front or side yards.
5. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.

Section 7.20 Mobile Home Regulations

7.20.01 Mobile homes permitted; conditional use permit.

1. Mobile homes shall be permitted only in an approved mobile home park with the following exceptions:
   A. A mobile home may be permitted by the City Council after public hearing, for purposes of temporary relief from local disaster such as fire, wind or flood damage; provided, that

such mobile home shall be removed from the premises within one year of its original placement;

B. A mobile home shall be permitted to be placed on a platted lot in a Mobile Home Subdivision as provided by these regulations;

C. A mobile home meeting the structural requirements of these regulations may be placed on an individual lot in the A-1 and A-2 districts, all subject to the issuance of a conditional use permit.

7.20.02 Use of mobile home as nonresidential structure.

One or more mobile homes or trailers may be used as a temporary office or other nonresidential structure on the site of a construction project, provided that such structure is removed upon completion of the project.

7.20.03 Building permit and compliance with certain standards required of mobile homes.

1. No mobile home shall be permitted to be moved into the zoning jurisdiction of the city, except for purposes of sale by a licensed dealer, until a building permit has been issued for its location in a specified mobile home park, mobile home subdivision or other approved location, in compliance with this ordinance and other ordinances of the city. In addition to compliance with ordinances of the city, the mobile home shall comply with the minimum standards of the Standards of Mobile Homes published by the American National Standards Institute, publication No. A-119-1, including any revisions and supplemental reports relative to the same. Compliance with these standards shall be shown by an approval report prepared by Underwriters Laboratories or other inspection agency, referring to the particular type and model of mobile home for which a permit is requested.
2. In the event that a code compliance report is unavailable, the Building Official may, at his discretion, inspect the structure prior to its transportation into the zoning jurisdiction, and determine whether it complies with such standards. In the event that all standards, codes and ordinances are complied with, the applicant shall be issued a building permit, and the mobile home shall be established in accordance therewith within six months, or the permit shall become invalid.

7.20.04 Mobile Home Parks, Minimum standards.

1. *Requirements.* The following are minimum standards for mobile home parks:
   A. Any mobile home occupying a mobile home park shall be situated on a mobile home space.
   B. Direct access to an individual mobile home space from a public street is prohibited.
   C. All mobile home spaces shall abut a private roadway.
   D. Access to mobile home parks from public streets shall be designed as curb cuts unless the roadway is an extension of an existing public street that has been temporarily dead-ended at the limits of the mobile home park.
   E. All mobile home spaces shall be consecutively numbered beginning with the number "1" with no omission or duplication through a block, and blocks shall be likewise numbered through the mobile home park. These numbers shall be at least four inches in height, reflectorized and in contrasting color to the background, and displayed on the front of each mobile home so as to be visible from the street.
   F. An illustrated directory shall be provided at the entrance showing the location of all mobile homes by number. This directory shall be lighted at nighttime and be maintained in a good condition that is to the satisfaction of the city.
2. *Park size.* No mobile home park shall have a site smaller than will accommodate 30 mobile homes, or comprising less than five acres.
3. *Space size.* Each mobile home space shall have dimensions of at least 50 feet in width and 100 feet in depth or an area of 5,000 square feet.
4. *Mobile home stands.* The area of the mobile home stand will be improved to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning by using one of the following methods:
   A. The mobile home stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the structure.
   B. Every mobile home or house trailer controlled by this regulation shall be anchored to the ground as required by the Uniform Standard Code for Manufactured Homes and Recreational Vehicles (R.R.S. 1943, § 71-4601 et seq.).

C. Over-the-top tie-down straps shall be required on all mobile homes, based on mobile home length, as follows:

Length (in feet)	Number of Anchors and Straps Per Side
36—50	3
50—70	4
70—80	5

The provisions of this section shall be applicable to all mobile homes located in the city or in the zoning jurisdiction. Unless permanently attached, all mobile homes will be tied down using such mobile home stands within 48 hours after arrival in the zoning jurisdiction of the city.

5. *Mobile home skirts.* Skirting of mobile homes with materials approved by the Building Official and harmonious to mobile home structure is required within 30 days after placement of mobile home.
6. *Roadway specifications.*
   A. Roadways shall be at least 30 feet in width, and shall include a marked pedestrian walkway, four feet in width, along each side.
   B. Upon opening a mobile home park, roadways shall be surfaced by either method as follows:
      (1) Concrete, six inches thick;
      (2) Full-depth asphalt, six inches thick.
   C. The horizontal alignment shall be as follows:
      (1) The minimum angle that a roadway intersects another roadway or street shall be 80 degrees.
      (2) The centerline of a roadway entering on opposite sides of a roadway or a street shall either be directly across from the centerline of the opposite roadway or street or offset by at least 125 feet or at a point one-half the distance between said opposite centerlines if they are existing streets or roadways and if the two opposite centerlines are less than 300 feet apart.
      (3) Whenever a roadway approaches a roadway that provides primary service in the area or a street, there shall be a tangent length of not less than 150 feet measured from the nearest centerline of the intersected roadway or street to any point or curvature in said approach roadway.
      (4) The centerline radius for any curve in a roadway that provides primary service in the area shall be at least 150 feet. All other roadways shall have at least a 125-foot center radii.
      (5) Roadways intersecting other roadways on the inside of a curve should be avoided.
      (6) There shall be a minimum 100 feet tangent length between all reverse curves. The tangent length, however, shall be in relation to the radii of the curves so as to provide for a smooth flow of traffic.
   D. The vertical alignment shall be as follows:
      (1) The maximum grade shall be six percent and the minimum grade shall be 0.4 percent subject to drainage approval.
      (2) All changes in roadway grades shall be connected by parabolic vertical curves of such length as to provide for the minimum sight distances required. The minimum sight distances shall be designed using 25 mph design speed.
      (3) The maximum grade for a roadway approaching a roadway that provides primary service in the area, or a street shall be a plus or minus two percent within 80 feet of a centerline of the intersected roadway or street.

7. *Roadway system.* The roadway system shall provide convenient and reasonable access to each mobile home space and community building from a public street and to adjacent property. Where an existing temporary dead-end public street or roadway on adjoining property abuts a mobile home court, provisions shall be made to vacate the street or roadway or a satisfactory terminus shall be provided with a turnaround or a roadway shall connect to the street or roadway to provide access into the court. The method of resolving the abutting dead-end street or roadway shall meet with the approval of the city. No block shall be longer than 1,320 feet

between cross roadways. Cul-de-sacs should not be longer than 1,000 feet as measured from the termination of the cul-de-sac to the intersection with a cross roadway. All dead-end roadways shall be terminated with a vehicular turnaround in accordance with city standards. Where a roadway is temporarily dead-ended at the limits of the mobile home court and is intended to be extended into the adjoining property which is not subdivided or developed and the dead-end roadway is more than 200 feet in length from the nearest intersection with another roadway, a temporary turn around shall be constructed to city standards and at such time as said dead-end roadway is extended the owner of the mobile home park at his own cost and expense shall remove said turnaround.

8. *Roadway names.* Proposed roadway names shall conform to the accepted naming system of the city. Roadways obviously in alignment with existing streets or roadways shall bear the name of the existing street or roadway. All proposed roadway names shall be checked by the Building Official for duplication of existing street or roadway names. Proposed names that are in conflict with existing street or roadway names shall not be approved.
9. *Parking space.* Two off-street parking spaces shall be provided for each mobile home space, and each parking space shall be located within 60 feet of the mobile home space which it shall serve. All parking spaces shall be paved, including the driveway between the roadway and the parking space, adequately marked and located at least five feet from roadways and 20 feet in length, nine feet in width, exclusive of any walkway which abuts the parking spaces. Adequate parking spaces shall be provided for accessory buildings and other park facilities.
10. *Required recreation areas.*
    A. Park and playground space shall be provided and maintained for occupants of the mobile home park on the basis of 300 square feet for each space in the park. Playground space shall be separate and aside from the open space provided for each mobile home space.
    B. Recreation areas shall be located so as to be free of traffic hazards.
11. *Landscape screen, lawn and ground covers.* The landscape screen in the exterior buffer area shall comply with the design standards for screening and landscaping. A lawn or a ground cover shall be planted or developed and maintained on all areas except those to be covered by structures, paved or surfaced areas, and except undisturbed areas such as woods, meadows and gardens which are to be preserved in their natural state.
12. *Easements.*
    A. The developer shall provide a blanket easement for the installation of utilities throughout the court or delineate and describe and provide by separate documents such easements as required. Easement documents that delineate and describe specific easements must be provided for all public utilities located in the court.
    B. The developer may be required to dedicate easements for street right-of-way.
13. *Accessory building and other community service facilities.* All such buildings shall meet all applicable municipal codes. This shall apply to, but not be limited to the following:
    A. Management office, repair shop and storage facilities;
    B. Sanitary facilities;
    C. Laundry facilities;
    D. Indoor and outdoor recreation areas;
    E. Tenant storage facility.
14. *Water supply.* Each mobile home court shall be provided a private water system with connections to each mobile home space. The source of water supply for the private water supply system shall be the city water supply, if reasonably available. Each accessory building, which requires water service, shall also be connected to the same private water system serving the mobile home spaces. This private water system shall be installed in compliance with the Uniform Plumbing Code and the standards for water main construction of the city. Where it is determined to be necessary for the city, public water lines shall be extended to adjoining property by either a water main district or written agreement. All proposed drawings, specifications and plans shall be approved by the state department of health prior to beginning construction.
15. *Sanitary sewer system.* Each mobile home court shall provide sanitary sewer system with connections to each mobile home space. This private sanitary sewer system shall be connected to the city sanitary system for transmittal of the sewage from the mobile home court to the city's treatment facilities, if connection to the city sanitary sewer system is reasonably available. Each accessory building, which discharges sanitary sewage, shall also be connected to the same private sanitary sewer system serving the mobile home spaces. This private sanitary sewer system shall be installed in compliance with the Uniform Plumbing Code and the standards for construction of sanitary sewer mains in the city, except as otherwise provided. Where it shall be determined to be necessary by the city, public sanitary sewers shall

be extended to adjoining property by either a sanitary sewer district or written agreement. Each lot shall be provided with a drain inlet not less than four inches in diameter. All proposed drawings, specifications and plans shall be approved by the state department of environmental control prior to beginning construction.

16. *Storm sewers.* The storm sewers shall be designed in conformance with the requirements of storm sewer design criteria which is on file in the city office. The storm sewer system shall be constructed in conformance with the requirements and standards of the city. Storm sewer system shall be enclosed unless the developer provides adequate open space for the open channel and constructs and maintains the channel and its banks to prevent erosion. The design of the channel shall be approved by the city.
17. *Natural gas, telephone, CATV and electric systems.*
    A. Natural gas piping, telephone and power systems and all other utility services in all courts shall be installed underground and maintained in conformity with accepted engineering practices and the rules and regulations of the utility.
    B. Illumination of roadways and walkways shall be equivalent to that required along public streets in residential areas by the city.
18. *Refuse disposal*.
    A. The storage, collection and disposal of refuse in the mobile home park shall be so managed as to create no health hazard, rodent harboring, insect breeding areas, accident or fire hazards or air pollution.
    B. All refuse shall be stored in flytight, watertight, rodent proof containers, which shall be located not more than 150 feet from any mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse.
    C. Racks or holders shall be provided for all refuse containers, such container racks or holders shall be so designed as to prevent containers from being tipped, to minimize spilling and container deterioration, and to facilitate cleaning around them.
    D. All refuse shall be collected in accordance with existing ordinances. All refuse shall be collected and transported in covered vehicles or covered containers.
    E. Garbage and trash shall not be burned on the premises.
19. *Alterations and additions.*
    A. All plumbing and electrical alterations or repairs in the mobile home park shall be made in accordance with applicable local regulations. Licenses issued under the terms of this article shall convey no right to erect any building, to do any plumbing work or to do any electrical work, except upon a permit issued in conformity with building, electrical and plumbing codes of the city.
    B. No permanent additions shall be built onto or become a part of any mobile home
20. *Registration of occupants.* Every mobile home park owner or operator shall maintain a register containing a record of all mobile homes and occupants using the mobile home park. Such register shall be available to any authorized person inspecting the park, and shall be preserved for the period required by the building department. Such register shall contain:
    A. The names and addresses of all mobile home occupants;
    B. The make, model and license number of the motor vehicle and mobile home;
    C. The state, territory or county issuing the mobile home license;
    D. The dates of arrival and departure of each mobile home; and
21. *Supervision.* The person to whom a permit for a mobile home park is issued shall at all times operate the park in compliance with this ordinance and regulations issued thereunder, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition at all times.

7.20.05 Conditional use permit required.

1. No mobile home park shall be constructed within the zoning jurisdiction of the city until a conditional use permit has been granted by the City Council, in compliance with Article 6. No such permit shall be granted until a development plan and development agreement for the proposed mobile home park have been prepared and submitted by the developer to the Planning Commission, and approved by the Planning Commission.
2. Such plans submitted to the Planning Commission shall be accurately drawn to scale and shall also be submitted to the Building Official and shall show the following:
    A. Proposed roadway and drive pattern;
    B. Proposed mobile home spaces and their approximate dimensions;
    C. Any existing streets in or abutting the property;
    D. Location and size of parking spaces;
    E. Location and size of park and playground area;
    F. Screening and landscaping;

G. Legal description of the tract;
H. Name of the developer and the firm preparing the plan;
I. North point, scale and date;
J. Location of water and sewer lines and riser pipes;
K. Plans and specifications of the water supply, refuse and sewage disposal facilities;
L. Plans and specifications of all buildings to be constructed within the mobile home park;
M. Location details of lighting and electrical systems;

3. The commission shall notify the board of education of each school district, in which the real estate or some part thereof to be affected by such a proposal lies, of the next regular meeting of the Planning Commission at which such a proposal is to be considered and shall submit a copy in writing of the proposal of the board of education at least ten days prior to such a meeting. Any action of the board of education concerning is advisory only. If the mobile homes court is outside of city limits, the same notice shall be given to the county highway superintendent.
4. The Planning Commission shall, upon submission of the plan and an application for a conditional use permit, publish notice and hold a hearing on the proposal, in conformance with Article 6. The decision of the commission to recommend approval or denial of the proposed mobile home park shall be based upon the following criteria:
   A. Compliance with standards of Section 7.20.04;
   B. The proposed project will be in harmony with the comprehensive plan of the city;
   C. Safe and efficient ingress and egress of vehicular and pedestrian traffic and an adequate level of utility and other services is assured;
   D. A safe and healthful living environment will exist for the occupants of the park.
5. Upon hearing and consideration of the project, the commission shall, within reasonable time, submit its recommendations and an endorsed copy of the plan to the City Council for final action.
6. The conditional use permit may provide a time for completion of paved roadways and other improvements. If improvements are not completed within such time, the conditional use permit may be canceled and further development and additional development of the park shall be prohibited. All mobile homes shall be removed within six months of the date of cancellation of a conditional use permit. The owner or his agent may apply for a new conditional use permit in the case of cancellation under procedures set out in this ordinance.
7. As a part of the development agreement, the licensee and any contractors may be required to file a bond in an amount sufficient to guarantee compliance with the provisions of this ordinance.

7.20.06 Exceptions.

1. *Generally.* Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions to the standards in Section 7.20.04, so that substantial justice may be done and the public interest secured, provided that such exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Commission shall not approve exceptions unless it shall make findings based upon the evidence presented to it in each specific case that:
   A. The granting of the exception will not be detrimental to the public safety, health or welfare, or injurious to other property;
   B. The conditions upon which the request for an exception is based are unique to the property for which the exception is sought and are not applicable generally to other property;
   C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of those regulations are carried out;
   D. The exceptions will not in any manner vary from the provisions of the zoning ordinance, comprehensive plan or official zoning map.
2. *Conditions.* In approving exceptions, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
3. *Procedures.* A petition for any such exception shall be submitted in writing by the developer at the time when the development plan and development agreement are presented for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

7.20.07 Manner of operation; appearance; etc.

Each mobile home park or subdivision, shall be operated in a sanitary, orderly and efficient manner, and shall maintain a neat appearance at all times. No damaged or deteriorated mobile homes shall be permitted to remain, and the park permit holder shall maintain suitable and effective rules for regulating the outside storage of equipment, the removal of wheels and installation of skirting and anchors, the collection of trash and garbage, and the attachment of appurtenances to the mobile homes. All drives, playground area and equipment, lawn and trees, and any recreation or accessory buildings shall be maintained at a level at least equal to the average residential neighborhood in the city. All portions of the mobile home park shall be open and accessible to fire, police and other emergency and protective vehicles and personnel, including city, county and state inspectors. Violation of this section will be grounds for revocation of an operating permit.

7.20.08 Operating permit required; procedure for obtaining; etc.

1. It shall be unlawful for any person to maintain or operate any mobile home park within the limits of the city and in the zoning jurisdiction of the city unless he holds a valid operating permit issued annually by the Building Official in the name of such person for the specific mobile home park. All applications for permits shall be made to the Building Official, which shall issue a permit on compliance by the applicant with provisions of this ordinance and of any regulations adopted pursuant thereto, and of any other applicable legal requirements. No permit shall be transferable. Every person holding such a permit shall give notice in writing to the Building Official within 24 hours after having sold, transferred, given away or otherwise disposed of interest in, or control of, any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park.
   A. Application for permits for mobile home parks existing within the zoning jurisdiction of the city at the time of implementation of this ordinance shall be submitted to the Building Official and contain the same date as indicated in Section 7.20.05. New mobile home parks, established after the implementation of this ordinance, will be required to obtain an operating permit under the provisions of this section.
   B. Unless otherwise provided herein, all mobile home parks will conform under this ordinance. Permits will be withdrawn if mobile home parks are operated in violation of this ordinance.
   C. Applications for renewals of permit shall:
      (1) Be made in writing by the holders of the permits;
      (2) Be accompanied by a deposit; and
      (3) Contain any change in the information submitted since the original license was issued or the latest renewal granted.
   D. All permits shall be for the calendar year; shall not be prorated, and shall expire on December 31. No permit fees shall be subject to refund.
   E. Any person whose application for a permit under these regulations has been denied may request and shall be granted a hearing on the matter before the City Council under the procedure provided by this ordinance.
   F. Whenever, upon inspection of any mobile home park, the Building Official finds that conditions or practices exist which are in violation of any provision of this ordinance or of any regulations adopted pursuant thereto, the Building Official shall give notice in writing in accordance with these regulations to the person to whom the permit was issued that unless such conditions or practices are corrected within 60 days, the permit will be suspended. At the end of such period, the Building Official shall reinspect such mobile home park and, if such conditions or practices have not been corrected, shall suspend the permit and give notice in writing of such suspension to which the permit is issued. Upon receipt of notice of suspension, such person shall cease operation of such mobile home park except as provided in these regulations. All mobile homes shall be removed within six months of the date of cancellation of an operating permit.
   G. Any person whose permit has been suspended, or who has received notice from the Building Official that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and shall be granted a hearing on the matter before the City Council, under the procedure provided by these regulations, provided that when no petition for such hearing shall have been filed within ten days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such ten-day period.

7.20.09 Authority to make inspections; owner to be given access to premises for purpose of making repairs, etc.

1. The Building Official is hereby authorized and directed to make inspections to determine the condition of mobile home parks located within the city and in the two-mile zone, in order that they may perform the duty of safeguarding the health and safety of occupants of mobile home parks and of the general public.
2. The Building Official shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this ordinance or of regulations promulgated thereunder.
3. The Building Official shall have the power to inspect the register containing a record of all mobile homes and occupants using the mobile home park.
4. It shall be the duty of the owners or occupants of mobile home parks, and mobile homes contained therein, or of the person in charge thereof, to give the Building Official free access to such premises at reasonable times for the purpose of inspection.
5. It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this ordinance, or with any lawful regulations adopted thereunder, or with any lawful order issued pursuant to the provisions of this ordinance.

7.20.10 Existing mobile home parks authorized.

All mobile home parks within the zoning jurisdiction of the city, which were in existence and operation on May 6, 1971, shall be authorized to be nonconforming to Section 7.20.04(1-3) and (6-14) so long as they do not present health or safety hazards as prohibited by these regulations and so long as they are not operated in a manner to expand or make worse any of the nonconforming provisions.

ARTICLE 8: LANDSCAPING AND SCREENING REQUIREMENTS

Section 8.01 Intent

The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of Lexington by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with the provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

Section 8.02 Application and Scope

The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

8.02.01 Agricultural buildings, structures and uses.

8.02.02 Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking is less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.

8.02.03 Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.

1. When a lot or site with more than one ownership has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City.

Section 8.03 Landscaping Requirements

Landscaping shall be required and provided as follows:

8.03.01 Single-family and two-family dwellings shall provide and maintain a minimum of 25 percent of lot area as a permeable and uncovered surface that contains living material. Single-family and two-family dwellings shall be exempt from all other requirements of this Section.

8.03.02 Street Frontage:

A landscaped area having a minimum depth of 15 feet from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.

1. The required landscaped area of 15 feet may be reduced to 10 feet if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
2. Exclusive of driveways and sidewalks not more than 25 percent of the surface of the landscaped area shall have inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.
3. A minimum of one tree, of a minimum one-and-one-half inch caliper, shall be planted for every 50 lineal feet or fraction thereof.

8.03.03 Side Yard:

A landscaped area having a minimum depth of 10 feet from the property line shall be provided along the side yard abutting any Residential District.

1. Exclusive of driveways and sidewalks, not more than 10 percent of the surface of the landscaped area shall be inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf. If the slope of ground within the landscape area exceeds 2:1, not more than 50 percent of the surface shall be inorganic material.
2. Landscaping shall include a hedge screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet within four years. A landscaped earth berm not exceeding six feet in height may be used in combination with the plant materials.
3. A six foot solid wood and/or masonry fence or wall, may be used in lieu of or in combination with the plant materials required in section 8.03.03 (2).

8.03.04 Rear Yard:

A landscaped area having a minimum depth of 10 feet from the property line shall be provided along the rear yard abutting any Residential District.

1. The landscape requirements for the rear yard shall be the same as for the side yard described in section 8.03.03.

8.03.05 Exterior lighting:

Exterior lighting when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.

8.03.06 Plant Materials:

Landscape living plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.

1. Size. The minimum size of plant materials to be installed shall be as follows:
   A. Deciduous trees having a mature height of 20 feet or less shall have a minimum caliper of one and one-fourth inches.
   B. Deciduous trees having a mature height of more than 20 feet shall have a minimum caliper of one and one-half inches.
   C. Evergreen (conifer) trees shall have a minimum height of three feet.
   D. Deciduous shrubs shall have a minimum height of 18 inches.
   E. Evergreen shrubs shall have a minimum spread of 18 inches.

8.03.07 Planting Schedule:

The plant materials shall be installed prior to the issuance of the certificate of occupancy. If, because of seasonal reasons, the landscaping cannot be installed, a surety satisfactory to the City of Lexington equal to the contract cost shall be submitted to the City. The City shall release the surety when the plant materials have been installed. If the plant materials have not been installed within 12 months of the effective date of the certificate of occupancy, the City may install the required landscaping, and assess the cost of the installation to the property owner.

8.03.08 Required Plans:

Upon application of a building permit, a landscape-planting plan shall be submitted to the City of Lexington for review and approval.

1. One copy of the plan shall be submitted.
2. The plan shall include, but not be limited to, the following:
   A. Property lines and other physical features necessary to show the proposed installation of plants.
   B. The location and spacing of plant materials.
   C. The scientific name, common name, plant size, quantity and planting method.
   D. When necessary, existing and proposed contours shall be provided.

Section 8.04 Fences and Retaining Walls

Fences and walls are permitted within the zoning jurisdiction of the City of Lexington subject to the provisions and restrictions provided in Chapter 107 of the Lexington Municipal Code.

Section 8.05 Screening Requirements

8.05.01 All commercial and industrial uses that abut residential districts shall provide screening not less than six feet in height along the abutting property line(s).

8.05.02 Screening required by this section shall be equivalent to the following:

1. Solid fences or walls as approved by the City on the final development plan.
2. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within three years after planting.
3. Berms of not less than three feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen.
4. All plant material used for screening shall meet the standards in section 8.03.

Section 8.06 Installation and Maintenance of Landscaping and Screening

8.06.01 Installation:

All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. The Building Official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided.

8.06.02 Maintenance:

The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a healthy condition by necessary and appropriate measures. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance, at maturity, to those items requiring replacement when feasible. Underground sprinkler systems are encouraged

to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Building Official.

All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Turf grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

Section 8.07 Plan Approval

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the site plan for development, for review by Building Official. Said Plan shall be in sufficient detail to provide the City with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping, together with a planting schedule.

Section 8.08 Parking Lot Plan Approval

A site development plan shall be submitted to the City with the necessary landscaping and screening required herein for each of the following types of parking lot improvements:

8.09.01 New construction.

8.09.02 Expansion of existing facilities, in excess of 4,000 square feet.

8.09.03 No parking lot shall be exempted from these regulations; unless previously exempted.

ARTICLE 9: LEGAL STATUS PROVISIONS

Section 9.01 Separability
Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 9.02 Purpose of Catch Heads
The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 9.03 Repeal of Conflicting Ordinances
All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 9.04 Effective Date
This Ordinance shall be published in pamphlet form and take effect as provided by law.

ADOPTED AND APPROVED by the City Council of Lexington, Nebraska,

This _____ day of _____, 2026.

(Seal)

ATTEST:_____ _____
(CITY CLERK) (MAYOR)

PLANNING COMMISSION
CITY OF LEXINGTON

DETERMINATION FORM

On July 1, 2026, the Lexington, Nebraska Planning Commission, at its regular meeting, recommended Approval (Approval/Disapproval) of a Ordinance 2485 to the Lexington City Council.

The Lexington Planning Commission made the following motion:

Motion by: Smith

Seconded by: Moyer

Motion: X Recommend approval of the ordinance

_____ Recommend approval of the changes with Modifications

_____ Recommend denial of the changes

Roll Call: Voting "aye" were Gonzalez, Roemmich, Moyer, Smith, Worthing

Voting "Nay" were None

City Clerk