

CITY OF BURWELL GARFIELD COUNTY, NEBRASKA

ZONING ORDINANCE #583

ADOPTED BY THE CITY OF BURWELL, NEBRASKA
SEPTEMBER 10TH, 2024

Prepared by
The City of Burwell Planning Commission
and



**CITY OF BURWELL, NEBRASKA
ORDINANCE NO. 583**

AN ORDINANCE OF THE CITY OF BURWELL, NEBRASKA TO APPROVE AND ADOPT A ZONING ORDINANCE AND SUBDIVISION REGULATIONS FOR THE CITY OF BURWELL, NEBRASKA, WHICH ORDINANCE IS INCORPORATED FULLY HEREIN BY REFERENCE, INCLUDING THAT AREA WITHIN ONE-MILE OF THE CORPORATE LIMITS.

WHEREAS, the City of Burwell Planning Commission has worked to develop a comprehensive amendment of the Zoning Ordinance and Subdivision Regulations, in conformance with Neb. Rev. Stat. §19-901 *et seq.*;

WHEREAS, the City of Burwell Planning Commission has duly held a Public Hearing,

WHEREAS, the City of Burwell Planning Commission has made a recommendation for adoption of the City of Burwell Zoning Ordinance and Subdivision Regulations to the City Council of Burwell, Nebraska;

WHEREAS, the City Council of Burwell, Nebraska, has held the required Public Hearing to collect public input on the proposed comprehensive development plan;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BURWELL, NEBRASKA:

That the City Council adopts Ordinance No. 583 incorporating the City of Burwell Zoning Ordinance and Subdivision Regulations, including the extraterritorial jurisdiction extending one-mile from the corporate limits of the City, as recommended by the City of Burwell Planning Commission and after completion of the required Public Hearings, with such Ordinance in full being attached hereto and incorporated fully herein by reference;

And that all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed and Approved this 10th day of September of 2024.



ATTEST:

Amy Hughes
City Clerk

Terry J. Case
Mayor

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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 Burwell, Nebraska."

Section 1.02 Purpose

This ordinance has been made in accordance with a comprehensive development plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; 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 protect property against blight and depreciation; and to secure economy in governmental expenditures. Any and all zoning restrictions herein have been determined to be reasonably necessary to the effectuation of a substantial government purpose.

Section 1.03 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the City of Burwell, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile, in conformance with Nebraska Revised Statutes §17-1001 and §13-327. The City's zoning jurisdiction shall be as established on the map entitled "The Official Zoning Map of the City of Burwell, Nebraska", and as may be amended by subsequent annexation.

Section 1.04 Provisions 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 public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

Section 1.05 Comprehensive Plan Relationship

This Zoning Ordinance is designed to implement various elements of the comprehensive development plan as required by state statutes. Any amendment to the district ordinance or map shall conform to the *City of Burwell Comprehensive Plan* adopted by the governing body.

Section 1.06 Planning Commission Recommendations

- 1.06.01 Pursuant to Neb. Rev. Stat. § 19-901, it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the City, as specified in Article 13 herein.
- 1.06.02 Pursuant to Neb. Rev. Stat. § 19-929, the Planning Commission reviews conditional uses proposed by property owners for the use of their property, as specified in Articles 5 and 6 herein.
- 1.06.03 The Planning 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.
- 1.06.04 No such permit, 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.

Section 1.07 Permits Required

- 1.07.01 No development, as herein defined, shall be commenced without approved permits as may be required by this Ordinance (See for example Section 4.13 Temporary Use Permits and Section 13.03 Zoning Permits).
- 1.07.02 Certain uses and structures may be specified "exempt" from permit application and approval; however, all uses and structures are subject to the standards of these regulations, within the extent of state and federal law.

Article 2: Definitions

Section 2.01 Rules

- 2.02.01 For the purpose of this ordinance, the following rules shall apply:
1. 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. 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.
 3. The word "shall" is mandatory. The word "may" is permissive.
 4. 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.
 5. The word "commission" shall refer to the Planning Commission of BURWELL, Nebraska.
 6. Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
 7. In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

Section 2.02 Abbreviations and Acronyms

For the purposes of these Regulations this section contains a listing of abbreviations and acronyms used throughout this document.

ADA	Americans with Disabilities Act
A.U.	Animal Unit
BESS	Battery Energy Storage Systems
CAFO	Confined Animal Feeding Operation
CFR	Code of Federal Regulations
CUP	Conditional Use Permit
DU	Dwelling Unit
FAA	Federal Aviation Administration
FCC	Federal Communication Commission
FEMA	Federal Emergency Management Agency
FT	Foot or Feet
GIS	Geographic Information System
HUD	US Department of Housing and Urban Development
kV	Kilovolt
kW	Kilowatt
LFO	Livestock Feeding Operation
NDEE	Nebraska Department of Environment and Energy
NHHS	Nebraska Department of Health and Human Services
NDNR	Nebraska Department of Natural Resources
NDOT	Nebraska Department of Transportation
NEMA	Nebraska Emergency Management Agency
NHHS	Nebraska Department of Health and Human Services
NSFM	Nebraska State Fire Marshall
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
SCS	Solar Conversion System
SF	Square Foot or Square Feet
SY	Square Yard
USC	United States Code
USACE	United States Army Corps of Engineers

USDA United States Department of Agriculture
WECS Wind Energy Conversion System
YD Yard

Section 2.03 Definitions

A

ABANDONMENT shall mean to cease or discontinue a use or activity without demonstrated 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 ADJACENT shall mean to border on, to be contiguous with or have common property or district lines, including properties separated by an alley, but not those otherwise separated by a dedicated right-of-way.

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 Regulation.

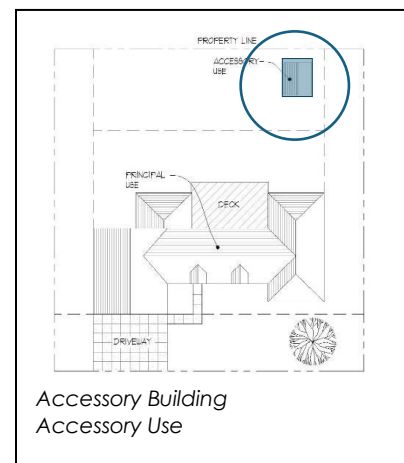
ACCESSIBILITY RAMP shall mean a sloped surface for moving individuals with disabilities from one level to the next, provided the slope of the ramp meets the requirements found in the Americans with Disabilities Act (ADA).

ACCESSORY BUILDING or STRUCTURE shall mean a detached subordinate building or structure located on the same lot with the principal building or structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory buildings and structures include garages, carports, and storage sheds.

ACCESSORY DWELLING UNIT shall mean a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

ACCESSORY LIVING QUARTERS shall mean living quarters within a 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 USE shall mean a use incidental, related, appropriate, and clearly subordinate to the main use of the lot or building.



Example of Accessory Dwelling Units

ACRE shall mean the unit of measurement equaling 43,560 square feet of area.

ACREAGE shall mean any tract or parcel of land, used for residential purposes, that does not qualify as a farm or farmstead.

ACTIVE RECREATION shall mean recreational activity requiring physical exertion such as swimming, tennis, soccer, baseball, softball, running and playgrounds.

ADDITION shall mean any construction which increases the size of a building or structure.

ADULT USE see Article 9.

ADVERTISING STRUCTURE shall mean any structure 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 said Advertising Structure.

AGENT shall mean any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.

AGRICULTURAL COOPERATIVE PRODUCTION OR DISTRIBUTION FACILITY: shall mean any facility owned and operated by a cooperative or other corporation for the purpose of manufacturing, distributing, and storage of fertilizers, herbicides and grain. This includes the offices, scales and parking areas necessary for trucks and other vehicles.

AGRICULTURAL OR FARM BUILDINGS shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to 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 IRRIGATION SYSTEMS shall mean any artificial means for the delivery of water for agricultural use to dry lands used primarily in the production of crops, which may include, but are not limited to, pivot point/center point systems, gravity (furrow) systems, subsurface drip irrigation systems (SDI), and/or irrigation wells.

AGRICULTURAL OPERATIONS shall mean a farmstead of 20 acres or more which produces \$1,000 or more of farm products each year.

AGRICULTURAL PROCESSING AND MANUFACTURING shall mean the processing of agricultural products after harvest for wholesale or retail sales.

AGRICULTURAL SALES AND SERVICE shall mean an establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides, and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

AGRICULTURE shall mean the use of land for agricultural purposes, for obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use.

AGRITOURISM ENTERPRISE shall mean activities conducted on a working farm or ranch offered to the public for the purpose of recreation, education, or active tourism related involvement in agricultural operations. This term includes farm tours, hayrides, corn mazes, pumpkin patches, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with an agricultural operation.

AIRPORT (AIRFIELD) shall mean an 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.

AIRPORT HAZARD ZONE shall mean an area consisting of operation zones, approach zones, turning zones, and transition zones for an airport. The outer boundary of the hazard zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the approach and turning zones.

AIRPORT, PRIVATE USE shall mean a privately-owned parcel of land used for take-off and landing of small aircraft which is duly registered with the Nebraska Department of Aeronautics.

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

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



Example of Agricultural Sales and Service

AMENDMENT shall mean a change in the wording, context, or substance of this Ordinance, or an addition, deletion or change of the Official Zoning Map.

AMUSEMENT ARCADE shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

ANAEROBIC DIGESTION: shall mean a process for digestion of waste in which the waste is digested where free oxygen is not available in sufficient quantities to maintain aerobic digestion.

ANIMAL, DOMESTIC see Household Pet.

ANIMAL HOSPITAL shall mean a place where animals are given medical care by a Doctor of Veterinary Medicine, and the boarding of animals is limited to short-term care incidental to the hospital use.

ANIMAL UNIT shall mean any farming operation or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than 6 months in any one calendar year, and where the number of animals so maintained exceeds 300 Animal Units as defined below. The confined area of the Livestock Feeding Operation (LFO) shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock waste. Animal Units (A.U.) are defined as follows:

Type of Animal	Animal Units	Equivalent Number of Animals
Beef Animal (500-1,200 lbs)	1.00	1
Beef or Dairy Calf (150-500 lbs)	0.50	2
Young Dairy Stock (500-1,000 lbs)	0.75	1.25
Dairy Cow	1.40	0.7
Horse	1.00	1
Swine (55 lbs or heavier)	0.40	2.5
Swine (<55 lbs)	0.10	10
Swine (sow and litter)	0.50	2
Sheep/Goat	0.10	10
Chicken/Game Birds (except turkey)	0.01	100
Turkey	0.02	50
Ostrich	0.40	2.5

ANIMAL WASTE shall mean any animal excrement, animal carcasses, feed waste, animal wastewater, or other waste associated with the care and feeding of animals.

ANIMAL WASTEWATER shall mean any liquid, including rainfall, which comes into contact with any animal excrement, manure, litter, bedding, or other raw material or intermediate or final matter or product used in or resulting from the production of animals or from products directly or indirectly used in any Waste Handling Facility Use, as defined in this regulation, or any spillage or overflow from animal watering systems, when allowed to mix with animal manure, or any liquid used in washing, cleaning, or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control in a confined or intensive animal feeding use.

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. See also *Satellite Dish Antenna and Tower*.

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

APARTMENT shall mean a room or a suite of rooms within an apartment house or multiple-family dwelling arranged, intended or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit, including culinary accommodations. See *Dwelling, Multiple*.

APARTMENT COMPLEX shall mean a building or buildings containing apartments used as a place of residence for more than two households.

APARTMENT HOUSE see *Dwelling, Multiple*.

APIARY shall mean a place where bee colonies are kept.

APPLICANT shall mean the owner or duly designated representative of land proposed to be subdivided, or for which a conditional use permit, temporary use permit; zoning amendment, variance, or appeal; easement; floodplain, home occupation, sign, or other zoning permit; or certificate of occupancy or other similar administrative permits has been requested. Applicant must be authorized in writing by the legal owner to make any application.



Example of an Apartment Complex

APPROPRIATE shall mean fitting the context of the site and the community.

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

AQUACULTURE shall mean land and/or buildings devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

AQUIFER shall mean a geological unit in which porous and permeable conditions exist and thus are capable of producing usable amounts of water.

AQUIFER RECHARGE AREA shall mean an area with soils and geological features conducive to allowing significant amounts of surface water to percolate into groundwater.

ARBORIST shall mean an individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees.

ARCHERY RANGE shall mean a facility for target practice with bows and arrows, which may include associated buildings or structures.

ARTISAN PRODUCTION SHOP shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by less than six artists or artisans, as either a principal or accessory use.

ARTIST STUDIO shall mean a place designed to be and/or used as both a dwelling place and a place of work by an artist, artisan, or craftsman, 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.

ATTACHED shall mean a foundation, wall, or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

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.



Example of Aquaculture
So.bing.com

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

AUTOMOBILE BODY REPAIR shall mean the repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

AUTOMOBILE AND MACHINERY REPAIR SHOP shall mean a building used for the repair of motor vehicles or machinery; when such repair shall be wholly within a completely enclosed building, not including Automobile Body Repair as defined.

AUTOMOBILE RENTAL AND SALES shall mean retail sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

AUTOMOBILE, WHOLESALE, SALES shall mean an individual or business which buys and sells vehicles in bulk to other businesses or dealerships, exclusive of retail sales directly to consumers.

AUTOMOBILE SERVICES shall mean the provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, but excluding dismantling, salvage, or body and fender repair services.

AUTOMOBILE WRECKING YARD shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.



Example of a stand-alone ATM

B

BALLROOM shall mean a place or hall used for dancing, other than those listed under the definition of Adult Uses. Ballrooms may also be used for reunions, weddings, and receptions.

BAR shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. *See also Nightclub or Tavern.*

BASE FLOOD shall mean the flood, from whatever source, having a one percent chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.

BASE FLOOD ELEVATION shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent or greater chance of flooding in any given year.

BASE ZONING DISTRICT shall mean a district established by this Ordinance which prescribes basic regulations governing land use and site development standards, in contrast with an Overlay District.

BASEMENT shall mean the area of a building having its floor subgrade (below ground level); that portion of a building which has more than one-half of its interior height, measured from floor to finished ceiling below the average finished grade of the ground adjoining the building shall be considered a basement.

BEACON shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST INN shall mean house, or portion thereof, where short-term lodging rooms and meals are provided. The owner/operator of the inn shall live on the premises.

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

BEER GARDEN shall mean a permanent establishment which includes any area out-of-doors and not completely contained within a building in which alcoholic beverages or food is served.

BEGINNING OF CONSTRUCTION shall mean the commencement of site grading and/or preparation of the foundation of any structure.

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

BEST INTERESTS OF COMMUNITY shall mean interests of the community at large and not the interest of the immediate neighborhood.

BIO-FUELS AND DISTILLATION MANUFACTURING shall mean a facility constructed for the purpose of processing a natural product such as corn or soybeans into an alcohol-based fuel/additive.

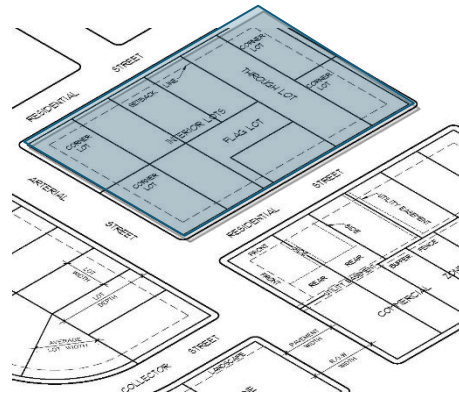
BLOCK shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, non-platted land, City or County boundaries, or adjoining property lines.

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

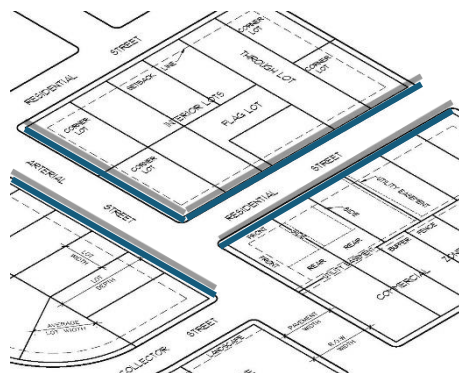
BOARD OF ADJUSTMENT shall mean that Board that has been created by the City, and which has the statutory authority to hear and determine appeals from, interpretations of, and variances to the zoning regulations.

BOARDING OR ROOMING HOUSE shall mean a building other than a hotel or motel but containing a single dwelling unit and provisions for three but not more than 20 guests, where lodging is provided with or without meals, for compensation.

BREEZEWAY: shall mean a roofed open passage connecting two otherwise detached buildings.



Example of a Block



Example of Block Frontage

BREW-ON PREMISES STORE shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

BREW PUB shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 20,000 barrels of beer or ale annually. The area used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space. *See also Brewery, Craft.*

BREWERY shall mean a facility for brewing ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 20,000 barrels of beverage (all beverages combined) annually.

BREWERY, CRAFT shall mean a brew pub or a micro-brewery with a Nebraska Craft Brewery License.

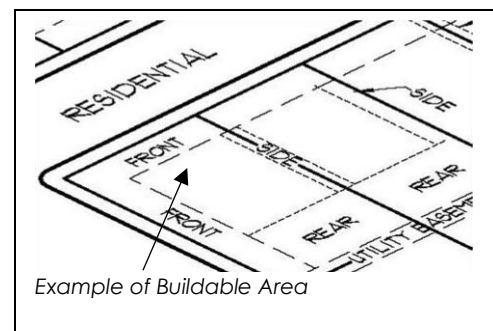
BREWERY, MICRO shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 20,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

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 AREA shall mean an open and unobstructed ground area of a plot in addition to any no building zones or street widening around the perimeter of any plot where required.

BUFFER YARD shall mean a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

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



BUILDING shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered buildings.

BUILDING AREA 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 adopted codes of the City of Burwell and the State of Nebraska which regulate construction and require building, electrical, mechanical, plumbing or other permits, as well as other codes adopted by the City that pertain to building construction.

BUILDING COVERAGE shall mean the area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

BUILDING ENVELOPE shall mean the three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

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 point of a gable, hip, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet horizontal distance of the exterior wall of the building.

BUILDING LINE shall mean the outer boundary of a building established by the location of its exterior walls.

BUILDING OFFICIAL shall mean the designee of the City, responsible for the enforcement of the Building Codes of the City of Burwell.

BUILDING SETBACK LINE shall mean the required zoning distance between a building and the lot line.

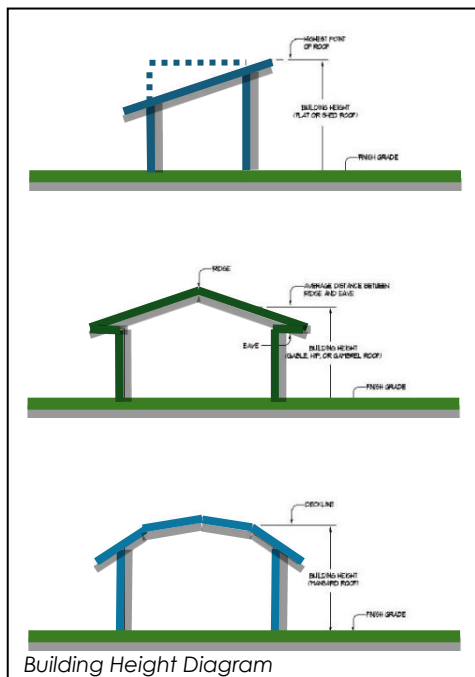
BULK REGULATIONS shall mean regulations controlling the size and relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling:

- (1) maximum height
- (2) maximum lot coverage, and
- (3) minimum size of yard and setbacks.

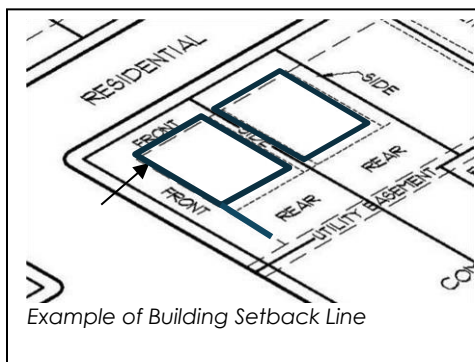
BULK MATERIALS shall mean dry solid substances typically found in power, granular, or lumpy forms, stored in heaps or within silos, such as sand, gravel, and cement.



Example of Building Envelope



Building Height Diagram



Example of Building Setback Line

BUSINESS shall mean activities that include the exchange or manufacture of goods or services on a site.

BUSINESS CENTER shall mean a building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

BUSINESS SERVICES shall mean uses providing services to people, groups, businesses, dwellings and other buildings. Business services shall include janitorial services, carpet and upholstery cleaning, painting and decorating, building maintenance, swimming pool maintenance, security service, graphics/advertising agency, photocopying/duplication, quick print shops, printing, blueprinting, sign painting, non-vehicle equipment rental, photographic studios.

BUSINESS SUPPORT SERVICES shall mean establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

C

CABIN shall mean a small one-story house built and designed for temporary use.

CABIN, HUNTING AND FISHING shall mean buildings used only during hunting and fishing season as a base for hunting and fishing, and outdoor recreation.

CAMPER shall mean any coach, cabin, house trailer, recreational vehicle (RV), or other vehicle or structure intended for or capable of temporary occupancy as living and sleeping quarters as is primarily required during camping or vacation travels. A Camper is not considered a residence.



Cabin, hunting and fishing

CAMPGROUND shall mean a parcel of land intended for the temporary occupancy of tents, campers, and recreational vehicles (RVs) for which the primary purpose is recreational and having open areas which 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.

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 less 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 columbariums, crematoriums, and mausoleums.

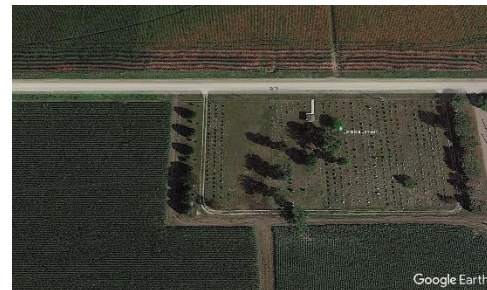
CERTIFICATE OF OCCUPANCY shall mean an official certificate issued by the Building Official or his/her designee, upon finding of conformance with the building code and other applicable ordinances of the City and authorizing legal use of the premises for which it is issued.

CHANNEL shall mean the geographical area located within either the natural or the artificial banks of a watercourse or drainageway.

CHARITABLE 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.



Example of a Campground



Example of a Cemetery



Example of a Channel

CHILD CARE CENTER shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska. *Also known as Daycare Center.*

CHILD CARE HOME shall mean an operation in the provider's place of residence, which serves at least four, but not more than eight children at any one time from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

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, including but not limited to, barns, stores, warehouses, old public buildings, and single-family dwellings.

CITY shall mean the City of Burwell, Nebraska. Also, "City Council" or "Governing Body."

CITY ATTORNEY shall mean the City Attorney of the City of Burwell or his/her authorized deputy, agent or representative.

CITY CODE shall mean the Municipal Code of the City of Burwell, Nebraska.

CITY COUNCIL shall mean the City Council of Burwell, Nebraska.

CITY ENGINEER shall mean the City Engineer as hired or appointed by the City or his/her authorized deputy, agent or representative.

CITY LIMITS shall mean the established corporate boundary of the City of Burwell.

CLEAR VIEW ZONE *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 which are organized primarily to render a service carried on as a business for profit.

CLUSTERED DEVELOPMENT shall mean a type of conservation development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

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

COMMERCIAL USE shall mean a use, other than an agricultural use, where goods and services are provided for sale or resale for profit.

COMMISSION shall mean the Planning Commission of BURWELL, Nebraska.

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.

COMMON DEVELOPMENT shall mean a development proposed and planned as one unified project not separated by a public street or alley.

COMMON OPEN SPACE shall mean land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the 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 but excludes those classified as Utilities. Typical uses include television studios, radio studios, telecommunication service centers, or telegraph service offices.

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 USE shall mean the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

COMPOST shall mean decomposed organic material resulting from the composting process. Used to enrich or improve the consistency of soil.

COMPOSTING (AEROBIC) shall mean the natural process of decomposing vegetative refuse, manure and other naturally degradable materials using free oxygen which is sufficient in quantity to maintain aerobic digestion.

COMPOSTING (ANAEROBIC) shall mean natural process of decomposing vegetative refuse, manure and other naturally degradable materials in large piles where free oxygen is not available in sufficient quantities to maintain aerobic digestion.

COMPREHENSIVE PLAN shall mean the Comprehensive Development Plan of BURWELL, 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 the Neb. Rev. Stat. §19-903.

CONDITIONAL USE PERMIT (CUP) shall mean a permit issued by the Planning Commission and City Council which authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6, and any additional conditions placed upon or required by said permit.

CONDOMINIUM shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the *Nebraska Condominium Act*, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1997).



Example of an Outdoor Manure Composting Process

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

CONFINED ANIMAL FEEDING OPERATION (CAFO) see *Livestock Feeding Operation*.

CONGREGATE HOUSING shall mean a residential facility for four or more persons aged 55 years or over and their 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. Also, see *Life Care Facility*.

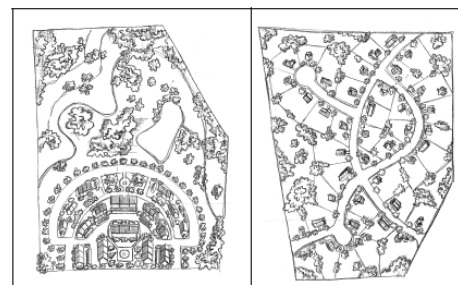
CONSERVATION shall mean the management of natural resources to prevent waste, destruction, or degradation.

CONSERVATION AREA shall mean an area of environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in the case of an 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 DEVELOPMENT shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features. See also *Clustered Development*.

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.

CONSERVATION SUBDIVISION shall mean wholly or in majority, a residential subdivision which permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.



Conservation subdivisions (left) feature smaller lots with a high percentage of open space. Conventional subdivisions (right) feature large lots with little common open space. A conventional subdivision is subject to all of the base zoning district standards, such as minimum lot size, front setbacks, landscaping, and adequacy of public facilities.

CONSTRUCTION BATCH PLANT shall mean a temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

CONSTRUCTION YARDS shall mean establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

CONVALESCENT SERVICES shall mean a use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

CONVENIENCE STORE shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies, and may also sell gasoline, to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on and is designed to attract and accommodate large volumes of stop-and-go traffic.

CONVENTIONAL SUBDIVISION shall mean a subdivision which meets all nominal standards of the Subdivision Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.

CONTIGUOUS see *Abut.*

CORPORATE LIMITS shall mean all land, structures and open space that has been annexed into the City, also known as municipal limits. This does not include the extraterritorial jurisdiction (ETJ) of the City.

COUNTRY CLUB shall mean the buildings and facilities owned and operated for social and recreational purposes operated by a membership association, customarily around a golf course, which may include, but are not limited to, swimming, tennis, and food and beverage service. See *Recreational Facility*.



Convenience Store

COURT shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two or more sides by such building or buildings.

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

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

COURTYARD shall mean an open, unoccupied space, bounded on two or more sides by the walls of the building.

CREATIVE SUBDIVISION shall mean a subdivision that, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Subdivision Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions may include Cluster Subdivisions and New Urban Residential Districts.

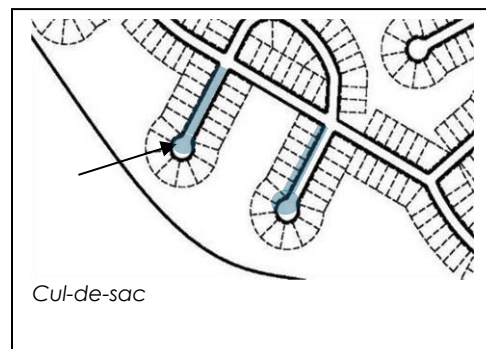
CROP PRODUCTION shall mean the raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

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

CULTURAL SERVICES shall mean a library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

CULVERT shall mean a pipe, conduit, or similar enclosed structure with appurtenant works which carries surface or stormwater under or through an embankment or fill, roadway, or pedestrian walk, or other structure.

CURVE LOT see Lot, Curve.



D

DATA CENTER shall mean an establishment primarily involved in compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing mainframe computers and storage devices. This term does not include general business offices, computer-related sales establishments, or business and personal services.

DATE OF SUBSTANTIAL COMPLETION shall mean the date certified by the local building inspector or zoning administrator when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.

DECIDUOUS SCREEN shall mean landscape material consisting of plants which lose their leaves in winter and eventually will grow and be maintained at six feet in height, at least.

DECK shall mean a flat, floored, roofless structure. Roofless does not include a roll-out awning or a canopy provided that all the vertical sides, other than the residential structure, are open.

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

DETACHED shall mean separated from any other building or not joined to another building in such a manner as to constitute an enclosed or covered connection.

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

DETENTION FACILITY shall mean a publicly or privately operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

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.



Deciduous Screen



Detention Basin

DEVELOPMENT shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

DEVELOPMENT CONCEPT PLAN see *Site Plan*.

DEVELOPMENT REVIEW shall mean the review, by the City, of new development including site plans, rezoning requests, subdivision plats, or other permit review.

DISTRICT OR ZONE shall mean a portion or part of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.

DOG DAY CARE FACILITY shall mean a facility providing such services as canine day care for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

DOG KENNEL see *Kennel, Boarding or Training, and Kennel, Commercial*.

DOG PARK shall mean a specifically designated and fenced off for the exercise of canines and other domestic animals.

DOMESTIC ANIMALS see *Household Pet*.

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.

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 when there is doubt as to whether a depression is a watercourse or drainageway, it shall be presumed to be a watercourse.



DRIVE-IN shall mean any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

DRIVE-THROUGH shall mean a building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

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

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

DUPLEX see *Dwelling, Two Family*.

DWELLING shall mean any building or portion thereof, which is designed and used exclusively for long-term residential purposes, excluding mobile homes. See also *Dwelling Unit*.

DWELLING, CARETAKER'S RESIDENCE shall mean an accessory dwelling on a nonresidential premises, occupied by the person who oversees the nonresidential operation 24 hours a day, and their family.

DWELLING, CONDOMINIUM shall mean a multiple dwelling 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 owner having an undivided interest in the common real estate.

DWELLING, COTTAGE COURT shall mean a residential form for either renter-occupied or owner-occupied which contains multiple units, likely grouped in pairs around an open space or courtyard.

DWELLING, COURTYARD BUILDING (MULTI-FAMILY) shall mean a multi-family residential structure where the units have internal access and are built around an outer or inner courtyard.

DWELLING, LIVE-WORK UNIT shall mean a small- to medium-sized attached or detached structure consisting of one dwelling unit above or behind a ground floor space accommodating a non-residential use.



Example of a Duplex



Example of Dwelling, Courtyard Building

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 US Department of Housing and Urban Development (HUD).

Neb. Rev. Stat. §19-902 mandates the City Council shall not adopt any zoning ordinance which prohibits the use of land for a proposed residential structure for the sole reason the proposed structure is a manufactured home, constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development.

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 rollers, 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 motor power or other means.

The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

- a) Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
- b) Permanent Foundation: Base on which building rests, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

A prefabricated structure manufactured since 1976 to meet the HUD Code shall not be considered a Mobile Home.



Example of a Dwelling, Manufactured Home

Source: <http://transportablehomesspecialist.com/>



Example of a Dwelling, Mobile Home

DWELLING, MODULAR shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the *Nebraska Uniform Standards for Modular Housing Units Act*, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (Cum.Supp.2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the *Nebraska Uniform Standards for Modular Housing Units Act*.



A Modular Dwelling will meet the State Building Code, and is treated as real property the same as a stick-built Residential Dwelling Unit when placed on a foundation.

DWELLING, MODULAR (HOME SEAL) shall mean a device or insignia issued by the Nebraska Department of Health and/or Public Service Commission to be displayed on the exterior of the modular housing unit to evidence compliance with state standards.

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

DWELLING, MULTIPLE WITH EFFICIENCY UNITS shall mean a multiple-dwelling building or buildings with dwelling units having only one room exclusive of bathroom, kitchen, laundry, pantry, foyer, closets, or any dining alcove.

DWELLING, SINGLE FAMILY shall mean a building having accommodations for or occupied exclusively by one family, placed on a permanent foundation.

DWELLING, SINGLE-FAMILY ATTACHED (GROUP, ROW, AND TOWNHOUSES) shall mean a residential building joined horizontally to another residential building at one or more sides by a party wall or walls.

DWELLING, TWO FAMILY (DUPLEX) shall mean a residential building containing two dwelling units, either attached or detached.

DWELLING, TWO FAMILY STACKED shall mean a residential building with two units stacked one on the other. These can be an older single-family dwelling unit converted into two separate units.

DWELLING, TRIPLE STACKED shall mean a residential structure containing three to six units stacked through three stories.



Dwelling, Single-family Attached



Example of Single-Family Attached

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

DWELLING UNIT, SPECIAL TYPES shall mean any dwelling type consisting of single-family detached; single-family attached, multi-family, mobile home that does not meet the typical construction style of traditional stick-framed structures.

1. **Cargo Container Dwelling:** a dwelling unit constructed of one or more new or used cargo containers used for multi-modal shipping.
2. **Grain Bin Dwelling Unit:** A dwelling unit constructed of one or more grain bins, new or used meeting the definition of dwelling unit above.
3. **Quonset home:** A home constructed beneath and in a structure referred to as a Quonset.
4. **Shouse:** A combination of a dwelling unit and machine shed under a common or connect roofing system.
5. **Tiny House:** A structure containing living spaces including sleeping and kitchen areas which measure 400 square feet or less in area. Tiny houses are only considered a dwelling when place on a permanent foundation.
6. **Tree House:** A dwelling unit where the primary structure of the unit is based on one or more tree clusters.



Cargo Container Apartment



Cargo Container Home



Cargo Container Home



Grain Bin Home



Grain Bin Home



Shouse



Shouse



Grain Elevator Apartment



Tiny House



Tiny House



Tree House
Dwelling Types



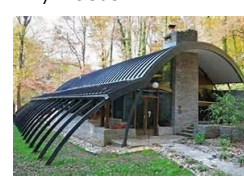
Tree House



Quonset home

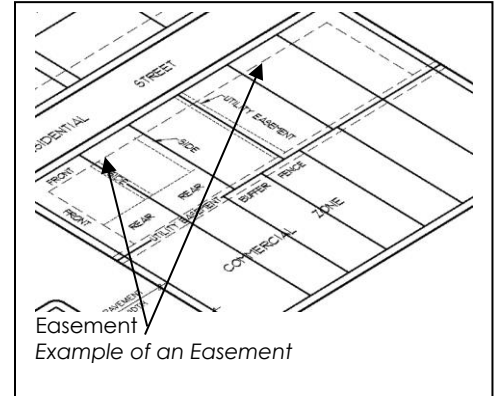


Quonset home



Quonset home

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.



EQUIPMENT SALES AND RENTAL shall mean the sale or rental of non-vehicular equipment, including incidental storage, maintenance, and servicing.

EQUIPMENT REPAIR SERVICES shall mean the repair of non-vehicular implements, and similar heavy equipment, excluding dismantling, salvage, or body and fender repair services.

ERECTED shall mean constructed upon or moved onto a site.

ETHANOL PLANT shall mean a facility where the conversion of biomass into an alcohol fuel product is undertaken. The facility also includes the processing of certain by-products resulting from the fermentation and distillation process.

EVERGREEN OR CONIFEROUS SCREEN shall mean landscape material consisting of plants which retain leaves or needles throughout the year which eventually will grow and be maintained at six feet in height, at least.

EXOTIC BIRDS OR ANIMALS shall mean birds or animals not commonly kept domestically or that are not native to Nebraska and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and buffalo or bison shall not be considered as exotic birds or animals.

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

EXTRATERRITORIAL JURISDICTION (ETJ) shall mean the area beyond the corporate limits of the City, in which the State has granted the City the power to exercise zoning jurisdiction and building regulations.

F

FAÇADE 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 one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than 4 of whom may be unrelated. The following persons shall be considered related for the purpose of this title:

1. Persons related by blood, marriage, or adoption.
2. Persons residing with a family for the purpose of adoption.
3. Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
4. Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
5. Person(s) living with a family at the direction of a court.

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

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



FARM shall mean an area containing **at least 20 acres or more** in agricultural use for growing or storage of products such as vegetables, fruit, and grain, as well as for the raising thereon of the farm poultry and farm animals, and which produces \$1,000 or more per year of farms products raised on the premises. The term farming includes the operation of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

FARMER'S MARKET shall mean an occasional or periodic market held in an open area or in a structure where groups of sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second hand goods) dispensed from booths located on-site.

FEDERAL shall mean the federal government of the United States of America.

FEEDLOT, COMMERCIAL shall mean a lot or building or combination of lots and buildings intended to be used for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure. This definition does not include the pasturing of livestock. See also *Livestock Feeding Operation*.

FENCE shall mean a structure serving as an enclosure, barrier or boundary above ground.

FENCE, INVISIBLE shall mean an electronic pet containment system that includes the burying of wire and the use of transmitters for complete enclosure of a yard or creating sectional areas within a yard.

FENCE, OPEN shall mean a fence, including gates, which has 50 percent or more of the surface area in open spaces, which affords direct views through the fence.

FENCE, SOLID shall mean any fence, which does not qualify as an open fence.



Example of a Farmer's Market
Copyright American Planning Association

FINANCIAL SERVICES shall mean the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies.

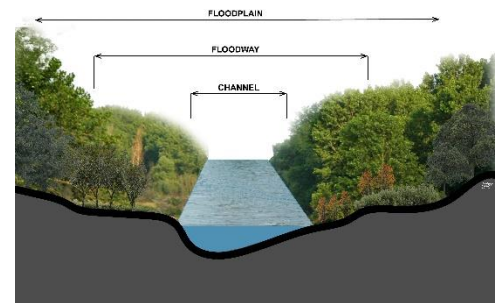
FIREWORKS STAND shall mean any structure used for the retail sale of fireworks, on a temporary basis.

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.

FLOOD shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOODPLAIN shall mean any land area susceptible to being inundated by water from any source.

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



FLOODWAY shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA shall mean the square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.

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.

FOOT CANDLE shall mean a unit of illumination. Technically, the illumination of all points one-foot distance from a uniform point source of one candle power

FOUNDATION shall mean that part of a building or wall, wholly or partly below grade, that constitutes a structural base for such building or wall.

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 that abuts a dedicated public street or highway.

FUEL STATION (gasoline station) shall mean a designated facility offering the sale of gasoline, diesel fuel, and/or propane.

FUEL STORAGE shall mean tanks used to storage fuel either above- or below-ground as part of an agricultural operation.

FUNERAL HOME OR MORTUARY shall mean a building used for the storage, preparation, and display of the deceased, and for the performance of rituals and ceremonies connected therewith before burial or cremation. Crematoriums are permitted as an accessory use to a funeral home or mortuary.

G

GARAGE, PRIVATE shall mean a detached accessory building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling. Private garages shall not have any sort of repair service facilities or function as a location where motor vehicles are kept for rental or sale.

GARAGE, PUBLIC shall mean any garage other than a private garage designed or used for equipment, repairing, hiring, servicing, selling, or storing motor driven vehicles.

GARAGE, REPAIR shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. *See also Service Station.*

GARAGE, STORAGE shall mean a detached accessory building on the same lot as a dwelling, used to house vehicles, recreational vehicles, and other consumables owned by the occupants of the dwelling.

GARBAGE shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock. *See also Solid Waste.*

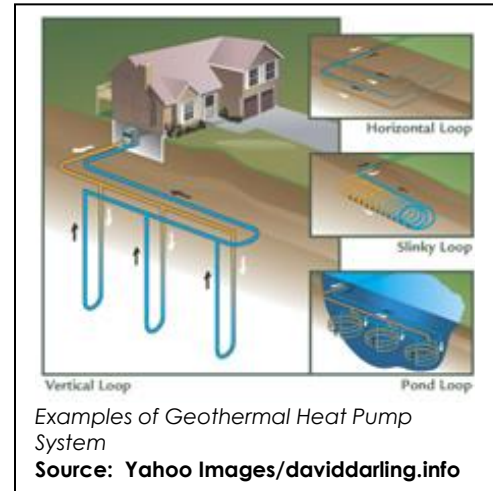


Freestanding Canopy

GENERAL OFFICES shall mean the Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.

GEOHERMAL HEAT PUMP SYSTEM shall mean a well, constructed for the purpose of utilizing the geothermal properties of the earth.

1. Open Loop Heat Pump well shall mean a well that transfers heat via pumped ground water which is discharged above and/or below ground.
2. Closed Loop Heat Pump well shall mean a well, constructed for the purpose of installing the underground closed loop pipe necessary to recirculate heat transfer fluid.
3. Horizontal Closed Loop means a trench or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of heat transfer.
4. Vertical Closed Loop means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed for the purpose of heat transfer.

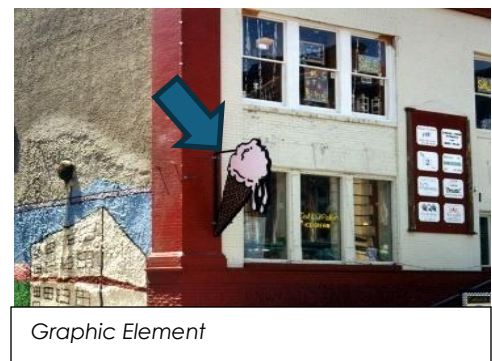


GRADE shall mean the horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

1. For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
2. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
3. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

GRAIN ELEVATOR shall mean a structure or group of structures whose purpose is limited to the receiving, processing, storage, drying, and transporting of bulk grain.

GRAPHIC ELEMENT shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.



GREEN ROOF shall mean a roof covering of vegetation material, typically consisting of the following components: an insulation layer, a waterproof membrane to protect the building from leaks, a root barrier to prevent roots from penetrating the waterproof membrane; a drainage layer, usually made of lightweight gravel, clay, or plastic; a geotextile or filter mat that allows water to soak through but prevents erosion of fine soil particles; a growing medium; plants; and, sometimes, a wind blanket.

GREEN ROOF, EXTENSIVE shall mean a green roof system that ranges from as little as one to five inches in soil depth. Extensive green roof systems generally add less load and require less maintenance than intensive green roof systems.

GREEN ROOF, INTENSIVE shall mean a green roof system that requires a minimum of one foot of soil depth to create a more traditional rooftop garden, with large trees, shrubs and other manicured landscapes. They are multiple layer constructions, often including elaborate irrigation and drainage systems, adding considerable load to a structure, and requiring intensive maintenance.

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

GREENHOUSE, NONCOMMERCIAL shall mean a building constructed primarily of glass, plastic or similar material in which temperature and humidity can be controlled for the cultivation of fruit, herbs, flowers, vegetables or other plants intended for private use and not for sale.

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, bridle path, or other similar access-way.

GROSS FLOOR AREA shall mean the total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.



Green Roof



Greenhouse



Greenway

GROUND COVER shall mean plant material used in landscaping which remains less than 12 inches in height at maturity.

GROUNDWATER shall mean water naturally occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

GROUP CARE HOME shall mean a home, which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide 24-hour care for individuals in a residential setting.

GROUP HOME shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having:

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

GROUP HOUSING shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

GUEST ROOM shall mean a room which is designed to be occupied by one or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

H

HALF-STORY shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face 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.



Example of Groundcover

HAZARDOUS WASTE shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.

HEALTH CLUB shall mean a privately owned recreational facility operated for profit, 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.

HELIPORT shall mean any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

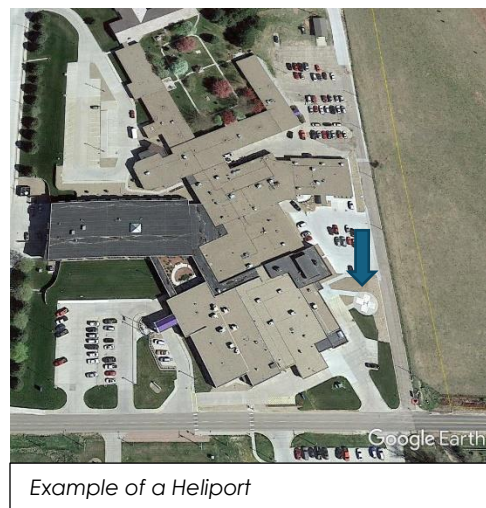
HELISTOP shall mean an area designed to be used for the landing or takeoff of one helicopter, the temporary parking of one helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

HOME OCCUPATION shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling within BURWELL. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Zoning Permit. Child Care Homes and Child Care Centers are not considered a Home Occupation.

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.

HORTICULTURE shall mean the growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

HOSPICE shall mean a facility serving as a medical and residential facility for end-of-life treatment, providing inpatient services and support services for families of the residents and patients.



Example of a Helipad

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 but is not limited to motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and 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.

/

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

IMPERVIOUS COVERAGE shall mean the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

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 compacted sand, rock, gravel, or clay and conventionally surfaced streets, roofs, sidewalks, parking lots, and driveways.

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

INDUSTRIAL USES 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 any storage facilities operated in conjunction with an industrial use or for a fee, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

INDUSTRIAL, GENERAL shall mean enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

INDUSTRIAL, HEAVY shall mean enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

INDUSTRIAL, LIGHT shall mean establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, food processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses.

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

INFILL SITE shall mean any vacant lot, parcel or tract of land within developed areas of the City and where water, sewer, streets, schools, and fire protection have already been constructed or are provided. a predominately built-up area.



INFRASTRUCTURE shall mean facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water lines, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

INOPERABLE MOTOR VEHICLE shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which is disassembled or wrecked in part or in whole, or is unable to move under its own power; or, (3) is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

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

INTENSIVE ANIMAL FEEDING OPERATION see *Livestock Feeding Operation*.

IRRIGATION FACILITY shall mean all structures and appurtenant works for the delivery, diversion, and storage of irrigation water; including Irrigation wells, center pivots, well houses, fuel tanks and other agricultural structures utilized for irrigation use.

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 material.

JUNK YARD shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment result from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. *For motor vehicles, see "Automobile Wrecking Yard"*.

K

KENNEL, BOARDING, or TRAINING shall mean a use on any lot or premises in which dogs, cats or any other household pets, at least four months of age, are raised, boarded, bred, or trained.

KENNEL, COMMERCIAL shall mean an establishment where four or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, excluding vicious animals, are raised, bred, boarded, trained, groomed, or sold as a business.

KENNEL, PRIVATE shall mean raising, breeding, or boarding four or more dogs or cats, or combination thereof, other household pets, or non-farm/non-domestic animals, without compensation.

L

LABORATORY: See Technical Office.

LAGOON shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the NDEE and the NHHS. All lagoons shall have the proper permits approved prior to starting construction.

LANDFILL, CONSTRUCTION MATERIAL shall mean the use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.

LANDFILL, SOLID WASTE shall mean the use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the EPA and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

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

LANDSCAPED AREA shall mean the area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

1. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
2. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

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

LANDSCAPING/TREE SERVICE shall mean a business which provides services such as landscaping installation, tree/plant removal, pruning, and arborist services, which may also include diagnosis of pest problems or plant diseases, including the outdoor storage of trees and shrubs but no on-site processing.

LAUNDRY, SELF SERVICE shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

LIFE CARE FACILITY shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals, culminating in full health, and continuing care nursing home facility. See also *Congregate Housing*.

LIMITS OF GRADING shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

LIQUOR SALES shall mean Establishments or places of business engaged in retail sale for off-premises consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

LIVESTOCK FEEDING OPERATION (LFO): Any agricultural or farming operation in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so maintained exceeds 300 Animal Units as defined below.

The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations.

Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other and utilize a common area of system for the disposal of livestock wastes.

Each operation type shall be classified in one of four levels according to total number of A.U. in the operation at any one time. Levels will include:

- Class I Facility = 301-1,000 animal units;
- Class II Facility = 1,001-2,500 animal units;
- Class III Facility = 2,501-5,000 animal units;
- Class IVA Facility = 5,001-10,000 animal units;
- Class V Facility = 10,001 or more animal units.

LFOs having more than one type of feeding operation at one location shall be categorized according to the total number of animal units. A farm with 300 animal units or less is considered strictly an Agricultural operation.

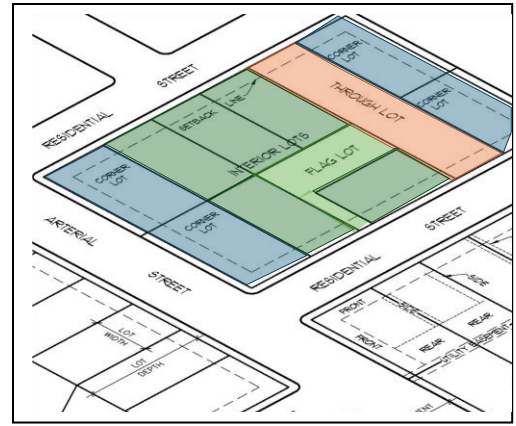
LIVESTOCK SALES shall mean the use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sale barns.

LOADING AREA/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.



Example of a Livestock Feeding Operation

LOT shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon an improved street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one improved public street or right-of-way, access easement, or improved private road.



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

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

LOT, FLAG shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.

LOT, INTERIOR shall mean a lot other than a corner lot.

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

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

LOT FRONTAGE shall mean the side of a lot abutting on a legally accessible street right-of-way, other than an alley, or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

LOT LINE shall mean the property line bounding a lot.

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

LOT LINE, REAR shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

LOT LINE, SIDE shall mean any lot line not a front lot line or rear lot line.

LOT, NONCONFORMING 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 Garfield 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 Regulation.

LOT OF RECORD shall mean a lot or parcel of land, the deed to which has been recorded in the records of the County Register of Deeds at the time of the passage of a regulation establishing the zoning district in which the lot is located.

LOT WIDTH shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

M

MANUFACTURED HOME see *Dwelling, Manufactured Home*.

MANUFACTURING shall mean the mechanical or chemical transformation of materials or substances into new products. Manufacturing uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Assembling component parts of manufactured products is 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, CUSTOM shall mean an establishment primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 kW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

MASSAGE PARLOR shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. See also *Adult Uses*.

MASTER FEE SCHEDULE shall mean a fee schedule maintained by the City of Burwell and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, and Subdivision activities.

MECHANICAL EQUIPMENT shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

MEDICAL OFFICES shall mean the use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Nebraska.

MINI-STORAGE OR MINI-WAREHOUSE see *Self-Service Storage Facility*.

MISCELLANEOUS STRUCTURES shall mean structures, other than buildings, visible from public ways. Examples are memorials, staging, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, and transformers.

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.

MIXED USE BUILDING shall mean a building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

MIXED USE DEVELOPMENT shall mean a single development that incorporates complementary land use types into a single development.

MOBILE FOOD UNIT shall mean a temporary food service establishment that is a vehicle-mounted and is designed to be readily movable.

MOBILE HOME see *Dwelling, Mobile Home*.

MOBILE HOME PARK see *Manufactured Home Park*.

MANUFACTURED HOME PARK shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile homes used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale.

MANUFACTURED HOME SUBDIVISION shall mean a tract of land which has been subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured or mobile homes.

MOTEL see *Hotel*.

MOTOR FREIGHT TERMINAL shall mean a building or area in which freight brought by motor truck is received, assembled or stored and dispatched for routing by motor truck which may include motor truck storage.

MOTOR VEHICLE shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheelchairs. Motor vehicles shall include self-propelled lawn mowers, golf carts, All Terrain Vehicles (ATVs), and light utility vehicles, as well as similar vehicles powered by an internal combustion engine or other motor.



Example of Mixed-use Buildings



Example of Mobile Home Park

N

NIGHTCLUB shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. See also *Bar*.

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

NONCONFORMING BUILDING/DEVELOPMENT shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

NONCONFORMING LOT shall mean a lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

NONCONFORMING SIGN shall mean a sign that was legally erected prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

NONCONFORMING STRUCTURE shall mean a structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the nonconforming characteristics of the structure.

NONCONFORMING USE shall mean any use existing and lawful at the time of adoption of these regulations occupying a building, structure or land but is no longer allowed.

NON-FARM BUILDINGS shall mean all buildings except those buildings utilized for agricultural purposes on a farm.

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 HOMES OR CONVALESCENT HOMES shall mean an institution or agency licensed by the State of Nebraska for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

O

ODOR shall mean characteristics of a substance or gas which makes it offensive to the human sense of smell and would make the average person likely to change what they are doing to lessen the exposure to the substance or gas.

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

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

ONSITE WASTEWATER TREATMENT SYSTTEM (OWTS) small mean any system for the collection, storage, treatment, neutralization, or stabilization of sewage that occurs on private property, commonly referred to as a septic system.



Example of a Nursery

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

OPEN LOTS shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

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

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

OUTDOOR ADVERTISING see *Advertising Structure and Sign.*

OUTDOOR STORAGE shall mean the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

OUTDOOR STORAGE CONTAINERS See *Storage Container, Portable.*

OVERLAY DISTRICT shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.

OWNER shall mean an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

P

PACKAGE LIQUOR STORE shall mean an establishment in which alcoholic beverages in original containers are sold for consumption off the premises.

PAINTBALL COURSE shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit-by-visit basis that allows individuals to participate in paintball activities.

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 shall mean 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 (9) feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

PAVED shall mean permanently surfaced with poured concrete, concrete pavers, or asphalt.

PERFORMANCE GUARANTEE shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

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

PERMANENT STORAGE shall mean the long-term storage on-site within an accessory building or structure.

PERMITTED USE shall mean any land use allowed within a zoning district, with a permit.

PERMANENTLY ATTACHED 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.

PERSON shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Burwell, Nebraska.

PERSONAL SERVICES shall mean uses providing human services exclusively to private individuals as the ultimate consumer. Personal services shall not be limited to but including grocery shopping services, tailoring and alterations, hair salons, spas, nail salons, barber shops, private household services and temporary personal in-home care.

PET GROOMING shall mean any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.

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.

PLANNING COMMISSION shall mean the Planning Commission of Burwell, Nebraska.

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

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

POLE BUILDING shall mean a structure built with no foundation or footings, using poles embedded directly in the ground as its primary support to hold metal, plastic, fiberglass or wood covering to form the building.

POLICY shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

PORCH, UNENCLOSED shall mean a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

PORTABLE ON-DEMAND STORAGE FACILITY shall mean a type of storage service that provides portable storage containers that can be delivered and picked up on demand.

PREMISES shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

PRESERVATION shall mean the act of protecting an area, parcel of land, or structure from being changed or modified from the present character to another that is not representative of a specific period or condition.

PRESERVATION EASEMENT shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of preserving the historical, architectural, archaeological, or cultural aspects of real property, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

PRINCIPAL STRUCTURE shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.

PRINCIPAL USE shall mean the main use of land or structure, as distinguished from an accessory use.

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

PROMOTIONAL DEVICE shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.

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

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

PUBLIC WATER SUPPLY shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least 25 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.

Q

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

QUARRY REHABILITATION shall mean providing slopes to be covered with a layer of soil and revegetated where practical. It applies to the rehabilitation of all kinds of sand, gravel, and rock excavations to obtain fill or construction materials and from which no further removal of materials is intended, as well as to resource extraction. Rehabilitation is intended to minimize the hazardous and unsightly nature of abandoned pits, and if practical, to return the area to some productive use.



An Aerial of a Mining and Mineral Extraction Site and Quarry
Source: Google Earth

QUARTER SECTION shall mean portion of a square section of land, as defined by the definitions and requirements of the Survey of Public Lands of the United States, which has approximately equal dimensions on all four (4) sides, has two (2) intersecting sides which coincide with two (2) intersecting section lines and contains approximately one-fourth (1/4) of the land area contained within a square section of land.

R

RECREATION, INDOOR shall mean a facility for relaxation, diversion, amusement or entertainment where such activity occurs within a building or structure.

RECREATION, OUTDOOR shall mean a facility for relaxation, diversion, amusement or entertainment in which some or all of the activities occur on the exterior but within the property of the facility.

RECREATIONAL FACILITY shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, pickleball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, theaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

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

RECREATIONAL VEHICLE (RV) PARK shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles (RVs) of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers. An RV Park is not intended for long-term occupancy.

RECYCLING CENTER shall mean a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products. The facility is not junkyard.

RECYCLING COLLECTION shall mean a collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

RECYCLING PROCESSING shall mean any site which is used for the processing of any postconsumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

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.

REMOTE PARKING shall mean a supply of off-street parking at a location not on the site of a given development.

RENEWABLE ENERGY shall mean energy sources including wind, solar power, biomass, and hydropower, that can be regenerated.

RENEWABLE RESOURCE shall mean a natural resource that is able to regenerate, either by itself or with human assistance, over a short to moderate time period, including food crops and trees.

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 operated for profit at which the primary function is the preparation and serving of food primarily to persons seated within the building.

RESTAURANT, DRIVE-IN shall mean a restaurant 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, ENTERTAINMENT shall mean a restaurant 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.

RESOURCE EXTRACTION shall mean a use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

RETAIL SALES shall mean establishments engaged in selling of goods or merchandise to the general public for personal or household consumption.

RETAIL SERVICES shall mean establishments engaged in selling of goods or merchandise including household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

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

RETIREMENT RESIDENCE shall mean a building or group of buildings which provide residential facilities for more than four residents of at least sixty-two years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

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

REZONING, PIECEMEAL shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

RIGHT-OF-WAY shall mean a strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

ROAD, PRIVATE shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. See also *Right-of-way* and *Street*.

ROAD, PUBLIC shall mean all public rights-of-way reserved or dedicated for street or road traffic. See also *Right-of-Way* and *Street*.

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

S

SALVAGE SERVICES shall mean places of business engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms.

SAND OR GRAVEL PIT shall mean land used for the extraction of sand and/or gravel for public and/or commercial use.

SANITARY LANDFILL shall mean a type of operation in which garbage and refuse, or garbage, or refuse is deposited by a plan on a specified portion of land, and is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six to twelve inches over individual cells of garbage and/or refuse, which are closed at the end of each day, and to a depth of at least twenty-four inches over the finished land fill.

SANITARY TRANSFER STATION shall mean a collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of all State and Federal Agencies.

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

SAWMILL shall mean an establishment primarily engaged in one or more of the following: (1) sawing dimension lumber, boards, beams, timber, poles, ties, shingles, shakes, siding, and wood chips from logs or bolts; (2) sawing round wood poles, pilings, and posts; or (4) chipping or mulching of wood. Also known as a *Lumber Mill*. See also *Wood Preservation Treatment*.



Aerial of a Sand and Gravel Operation



Aerial view of a Sanitary Landfill

SCHOOL, BUSINESS OR TRADE shall mean a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

SCHOOL, DAY, PRE-, OR NURSERY shall mean a school or center for children under school age, whether licensed as a day care center or not. Such shall be approved by the Nebraska State Fire Marshall as being in conformance with safety provisions pursuant to 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.

SCREENING shall mean a structure or planting that conceals from public view the area behind such structure or planting.

SELF-SERVICE STATION shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

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

SEPARATE OWNERSHIP shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

SEPTIC SITE shall mean the area bounded by the dimensions required for the proper location of the septic tank system. See also OWTS.

SERVICE STATION 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 shall mean the minimum distance, as prescribed by this regulation, measured from the edge of the eve or other similar building component located closest to the lot line.

SETBACK LINE, FRONT YARD see *Yard, Front*

SETBACK LINE, REAR YARD see *Yard, Rear*

SETBACK LINE, SIDE YARD see *Yard, Side*

SHORT-TERM RENTALS shall mean any dwelling or condominium or portions thereof, in which the owner does not reside, that is available for use or is used for accommodations or lodging of guests, paying a fee or other compensation for a period of less than thirty consecutive days.

SHOUSE: see *Dwelling Unit, Special Types*.

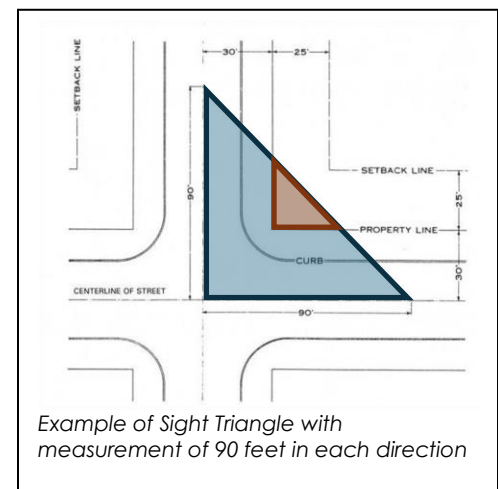
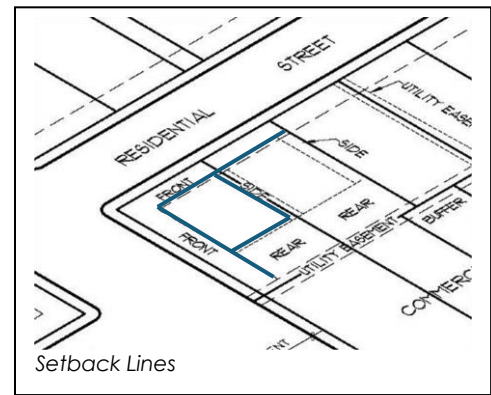
SHRUB shall mean a multi-stemmed woody plant other than a tree.

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 and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets along the centerline of the streets.

SIGN shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest.

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 shall mean the parcel of land to be developed or built upon. A site may encompass a single lot; a portion of a lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.



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.

SKATE, IN-LINE shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.

SKATE PARK shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for the use with skateboards and in-line skates.

SKATEBOARD shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.

SKATEBOARD RAMP shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.

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

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

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.

STABLE AND/OR RIDING ACADEMIES shall mean the buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

STANDARD SYSTEM shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

STOCKPILING shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one year.

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.

STORAGE CONTAINER, PORTABLE shall mean any container that can be loaded onto the chassis of a semi-trailer for the purpose of hauling materials and commodities. Portable storage (cargo) containers are intended to be used as a load on-site and haul-off for shipping and storage off-site. Another name for these containers is *Portable On-Demand Storage*.

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.

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.



Storage Container

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

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

STREET, COURT shall mean an approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:

1. Serves twelve or fewer housing units or platted lots.
2. Does not function as a local street because of its alignment, design, or location.
3. Is completely internal to a development.
4. Does not exceed 600 feet in length.

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

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

STREET, LOOPED shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.

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" and "road".

STREET, SIDE shall mean that street bounding a corner or reversed corner lot, and which extends in the same general direction as the line determining the depth of the lot.

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

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 HARDWARE shall mean man-made objects other than buildings that are part of the streetscape. Examples include but are not limited to lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, and fire hydrants.

STREET LINE shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

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.

STRIP COMMERCIAL CENTER shall mean a commercial development, usually one store deep, fronting a major street, including one or more buildings with on-site parking. Each tenant shall meet the requirements of this ordinance as they occupy the premises, including use, signage, and parking.

STRUCTURE shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

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

SUBDIVISION shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

SURFACE WATERS shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

SURPLUS SALES shall mean businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

SWIMMING POOL, PRIVATE shall mean a pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.

T

TANNING STUDIO shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

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

TAVERN see Bar.

TAXIDERMY SERVICES shall mean an operation conducted solely within an enclosed building to include on-site preparation, stuffing, and mounting of heads and skins of animals. Exterior storage or processing of carcasses or parts of animals shall be prohibited.

TECHNICAL OFFICE FOR RESEARCH AND DEVELOPMENT shall mean an office with indoor laboratory and research facilities.

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

TERRACE shall mean a raised earthen embankment with the top leveled. A terrace may be supported by a retaining wall.

THEATER shall mean a building or structure used for recreational, dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and limited audience participation or meal service.

TOWER shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. See also *Antenna*.

TOWNHOUSE shall mean a one-family dwelling unit, with a private entrance in a group of three or more units where the unit and land are in the ownership of the same owner, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

TRACT shall mean a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

TRAILER, AUTOMOBILE shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

TREE COVER shall mean an area directly beneath the crown and within the dripline of the tree.

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 STOP shall mean a facility providing fuel and services to the motoring public, focused on large trucks, including gas/EV fueling, vehicle repair, car/truck wash, restaurants, motels, and/or overnight parking, on an integrated site.

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



Truck Stop

U

UPPER STORY HOUSING shall be defined as one or more dwelling units located above the first floor where allowed within a commercial district.

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, CONDITIONAL shall mean a use allowed in a particular zoning district, upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.

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.

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

UTILITARIAN STRUCTURE shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

UTILITY EASEMENT see *Easement*.

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

UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION SYSTEM OF" shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall include all lines and appurtenances carrying a primary voltage of less than 161 kV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.

UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE", or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

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

V

VALUE shall mean the estimated cost to replace a structure in kind, based on current replacement costs.

VARIANCE shall mean a relief from or variation of the provisions of this regulation, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

VEGETATION shall mean trees, shrubs, and vines.

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

VEHICLE, MOTOR: see Motor Vehicle.

VEHICLE STORAGE shall mean storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

VEHICLE STORAGE, LONG TERM shall mean storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

VENDING MACHINE shall mean any unattended self-service device that, upon insertion of a coin, coins, tokens, debit and/or credit cards or by similar means, dispenses food, beverage, goods, rental materials, wares, merchandise, or services.

VENDING MACHINE, REVERSE shall mean an automated mechanical device that accepts at least one or more types of empty beverage containers, including but not limited to aluminum cans and glass or plastic bottles and that issues a cash refund or a redeemable credit, provided that the entire process is enclosed within the entire machine. A reverse vending machine may be designed to accept more than one container at a time, paying by weight instead of the container.

VETERINARY SERVICES shall mean services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

VISUAL OBSTRUCTION shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.

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.

WAREHOUSING (ENCLOSED) shall mean uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

WAREHOUSING (OPEN) shall mean uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, materials yards, open storage.

WASTEWATER LAGOON see *Lagoon*.

WATERCOURSE shall mean natural or once naturally flowing water, either perennially or intermittently, including rivers, streams, creeks, and other natural waterways. Includes waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

WATERS OF THE STATE shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, natural or artificial, public or private, situated wholly within or bordering upon the state.

WETLAND shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

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

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

WIRELESS COMMUNICATION TOWER shall mean a structure for the transmission or broadcast of cellular, radio, television, radar, or microwaves which exceed 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 wireless communication towers.

X

XERISCAPING shall mean the practice of designing landscapes to reduce or eliminate the need for irrigation. Xeric landscapes typically feature the use of native vegetation which is drought-tolerant or low water-use in character.



Example of Xeriscaping
Source: Google Images

Y

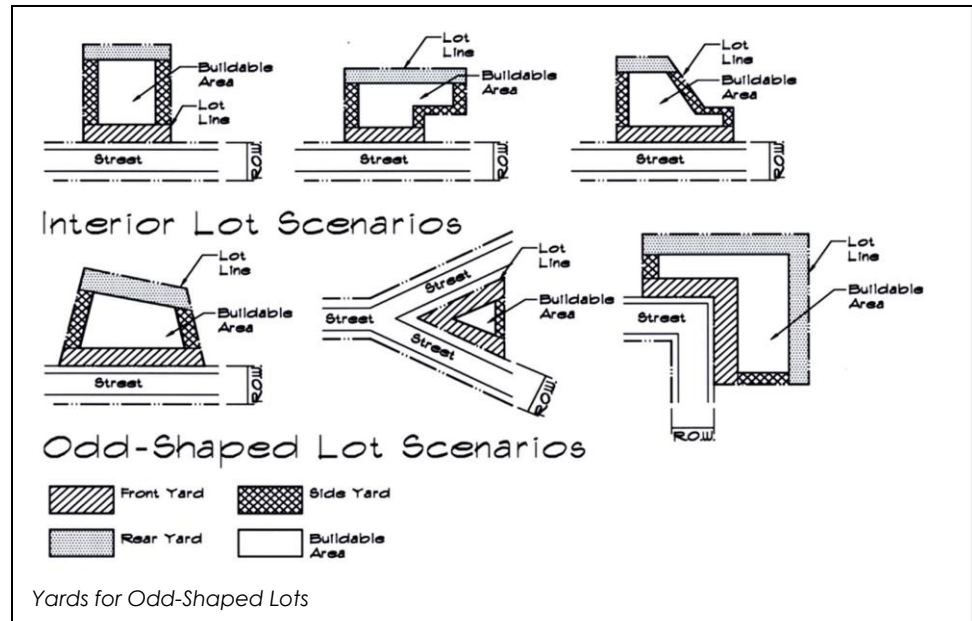
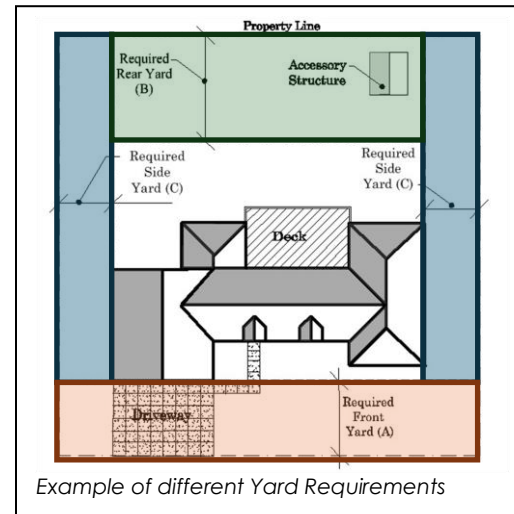
YARD shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

YARD, FRONT shall mean a space between the front yard setback line and the front lot line or right-of-way, and extending the full width of the lot. See also *Lot Frontage*.

YARD, REAR shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

YARD, SIDE shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

YARD, STREET SIDE shall mean the side yard space for a corner lot, which shall be considered a front yard unless otherwise provided herein.



Z

ZONING ADMINISTRATOR shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of this chapter.

ZONING DISTRICT see *District*.

ZONE MAP AMENDMENT shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.

Article 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 one mile of the corporate boundaries, the City is hereby divided into zoning 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.
1. 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. 583 of the City of Burwell, Nebraska", together with the date of the adoption of this Ordinance.
 2. 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.
1. 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 (Ordinance No. 583) of the City of Burwell Nebraska."
 2. 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.

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Article 4: General Provisions

Section 4.01 Zoning Affects Every Building and Use

No structure or land shall hereafter be used or 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 non-conforming structure damaged or destroyed may be restored in conformance with Article 11 of this regulation.

Section 4.02 Lot

- 4.02.01 Every building hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot or lot of record.
 - 1. No site may be further developed without a public street, or approved private street or access easement, constructed to City of Burwell standards.
 - 2. Non-residential agricultural structures may be built without an improved public access.
- 4.02.02 In no case shall there be more than one principal building on a lot unless otherwise provided.
 - 1. More than one principal building may be located upon a lot or tract in the following instances, as part of a site plan review through a Conditional Use Permit (CUP) recommended by the Planning Commission and approved by the City Council.
 - A. Agricultural buildings
 - B. Public, Civic, and Institutional buildings
 - C. Cottage Court and multiple-family dwellings
 - D. Manufactured and Mobile homes as part of a Manufactured Home Park
 - E. Commercial or Industrial buildings
- 4.02.03 Multiple non-residential agricultural buildings may be located on a lot or tract in the TA-1 Agricultural zoning district.
- 4.02.04 Each building or structure or use established shall provide for water supply and sewage disposal. The location, construction, connection, and use shall comply with the requirement of the Nebraska Department of Environment and Energy (NDEE).
- 4.02.05 Any principal (not accessory) structure must be placed on a permanent foundation, as defined.

Section 4.03 Reductions in Lot Area Prohibited

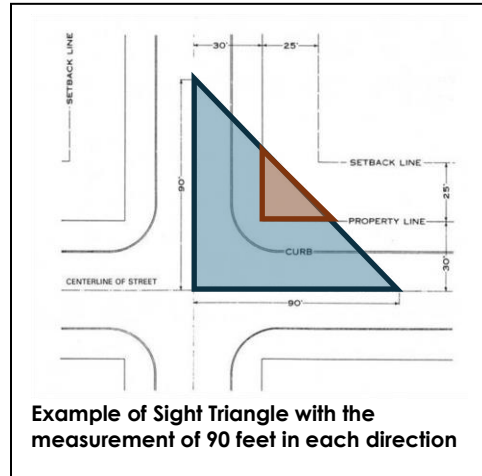
No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.04 Obstructions to Vision at Street Intersections

4.04.01 A "Sight Triangle" as defined herein shall be maintained at every street intersection.

4.04.02 On a corner lot, within the area formed by the center line of streets at a distance of 75 feet from their intersections, there shall be no obstruction to vision between a height of two and one-half feet and a height of 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets.

4.04.03 At the intersection of Arterial streets, the 75-foot distance shall be increased to 90 feet for each Arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.



Section 4.05 Yard Requirements

4.05.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side, and rear yards (setbacks) 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.

1. No part of a yard, or other open space, or off-street parking or loading space, required in connection with any building for the purpose of complying with this regulation, shall be included as part of a yard, open space, or off-street parking or loading space required for another building and or lot.

4.05.02 No yard or lot existing at the time of passage of this regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this regulation shall meet the minimum requirements herein.

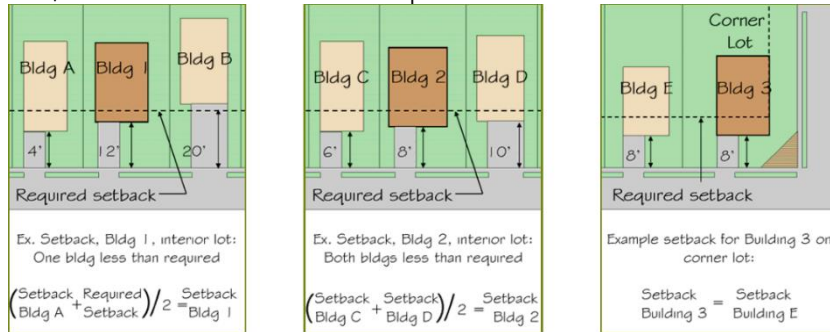
4.05.03 All accessory buildings when connected to the principal building (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

4.05.04 Yards adjacent to a different use

1. Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District, which is adjacent to any Agricultural or Residential district shall be **no less than** as required in that district, and shall contain landscaping and planting suitable to provide effective screening;
2. This requirement does not apply in the Downtown Commercial (DC) District.

4.05.05 Waivers

1. The Zoning Administrator may permit a waiver in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that
 - A. More than 40 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and
 - B. A minority of such structures have observed or conformed to an average setback line, see illustration for different provisions:

**Section 4.06 Permitted Obstructions in Required Yards**

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

4.06.01 All Yards:

- Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade, within minimum requirements of the Americans with Disabilities Act (ADA), which are necessary for access to a permitted building or for access to a lot from a street or alley.
- Approved freestanding signs outside utility easements.
- Arbors and trellises
- Awnings and canopies projecting six feet or less into the yard
- Bay windows projecting three feet or less into the yard
- Chimneys projecting 24 inches or less into the yard
- Eaves not more than two feet into the yard
- Egress windows and bulkhead enclosures
- Fences or walls subject to applicable height restrictions
- Flag poles;
- Off-street parking spaces (open air, no cover)
- Playground and other recreational equipment
- Window air conditioners projecting not more than 18 inches into the required yard

4.06.02 Rear and Side Yards:

- Open or screened porches, platforms, or terraces not over three feet above the average adjoining ground level, including roofed porch.
- Outside elements of central air conditioning systems;
- Clotheslines;

4.06.03 Double Frontage Lots: The required front yard shall be provided on each street.

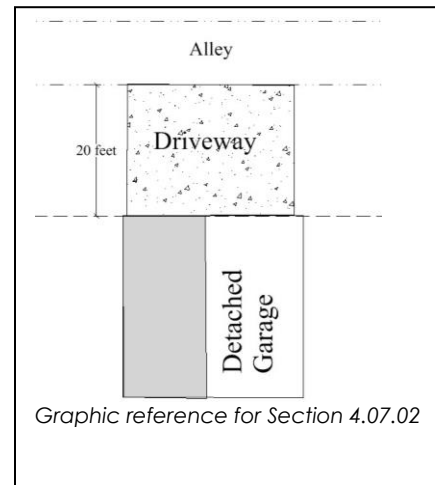
4.06.04 Building Groupings: For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

Section 4.07 Accessory Buildings and Uses

- 4.07.01 No accessory building or structure shall be constructed on a lot without a principal building or structure.
1. In no event shall a portable storage container be used as a permanent storage/accessory building within any residential district, except as a temporary use as provided in Section 4.13 of this regulation.

4.07.02 Requirements for Accessory Buildings

1. No detached accessory building or structure shall exceed the maximum permitted height allowed in the individual district, or the height of the principal building or structure, whichever is greater.
2. No accessory building shall be constructed in the required front yard.
 - A. No accessory building shall be erected in or encroach upon the required front yard on a corner lot or the front yard of a double frontage lot.
3. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
4. When a detached garage or other outbuilding is built at a lesser setback than required for a principal structure, the principal structure and detached building shall remain as separate structures and maintain the required separation distances.
5. When a detached garage has access to an alley, the rear yard setback shall be increased to 20 feet for garages directly accessing the alley from a garage door parallel to the alley. Otherwise, a garage need be setback only five feet from an alley, outside any utility easement.



- 4.07.03 Temporary and portable carports may be allowed in designated zoning districts provided the following criteria shall be met:
1. Any carport shall be anchored to the ground.
 2. A carport shall not have more than two sides covered with siding material.
 3. A carport shall meet all minimum setbacks for accessory structures.
- 4.07.04 Detached private garages and outbuildings, located in residential districts within the corporate limits of the City, for automobiles and/or storage use, and other structures customary and appurtenant to the permitted uses, and detached accessory garages, shall be constructed of materials customarily used in residential construction and meet the following:
1. Be constructed of materials that are in good repair.
 2. Maximum roof slopes shall be 4:12.
 3. Garages shall have an overhang of at least six inches.
 4. Garages shall have a maximum width of 40 feet.
 5. Garages shall be constructed and finished in materials customary to residential construction.
- 4.07.05 There shall be a maximum of two accessory buildings on any lot.
1. No accessory building shall be larger in area than the first floor area of the principal building.

Section 4.08 Modifications of Height Regulations

- 4.08.01 The height limitations of this Ordinance shall not apply to:
- | | |
|----------------------------------|---|
| Air-Pollution Prevention Devices | Grain Elevators |
| Agricultural structures | Meteorological equipment |
| Belfries | Ornamental Towers and Spires |
| Chimneys | Public Monuments |
| Church Spires | Radio/Television Towers less than 125 feet tall |
| Conveyors | Silos |
| Cooling Towers | Smokestacks |
| Cupolas | Stage Towers or Scenery Lots |
| Fire Towers | Tanks |
| Flag Poles | Water Towers and Standpipes |
- 4.08.02 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 4.09 Standards for Manufactured Homes on Individual Lots

- 4.09.01 When the following standards are met, a Manufactured Home must be considered to meet the definition of a stick-built Residential Dwelling Unit in conformance with Neb. Rev. Stat. §19-902:
- A. The home shall have no less than 900 sf of floor area, above grade.
 - B. The home shall have no less than an 18 ft exterior width.
 - C. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.
 - D. The exterior material shall be of a color, material, and scale comparable with existing site-built, single-family residences.
 - E. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock. However, standing seam roofs are allowable if non-reflective.
 - F. The home shall have wheels, axles, transporting lights, and removable towing apparatus removed, and
 - G. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
 - H. The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

Section 4.10 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, and any required emergency egress requirements of the City of Burwell have been installed as required per state and life-safety codes.

Section 4.11 Drainage

- 4.11.01 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.
- 4.11.02 Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

Section 4.12 Swimming Pools

- 4.12.01 All above-ground (over three feet in height) or in-ground swimming pools constructed within the zoning jurisdiction of the City shall be constructed in compliance with all local, state, and federal codes.
1. The area encompassed by an in-ground swimming pool shall have a permanent fence, including locking gate at a height of six feet.
 2. Drainage of said swimming pool must not be onto adjoining property.
 3. There shall be no drainage of said swimming pool into the sanitary sewer system of the City.
 - A. Drainage may be permitted into the storm sewer provided the chemicals contained in said swimming pool are first diluted.
 4. All chemicals must be stored in a secure area.

Section 4.13 Temporary Uses and Permits

- 4.13.01 The Zoning Administrator shall issue temporary permits for temporary uses as designated in Section 5.06, **not to exceed 180 days** in duration unless otherwise provided herein, including:
1. Construction site offices, if located on the construction site itself, and buildings to be constructed and used for storage incidental to construction of buildings on the property, while construction remains active.
 2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home.
 3. Construction Batch Plants, provided that:
 - A. No plant may be located within 600 feet of a developed residential use, park, or school.
 - B. Hours of operation do not exceed 12 hours per day.
 - C. The duration of the plant's operation does not exceed 180 days, but may be extended by the Zoning Administrator if unforeseen circumstances have delayed the project.
 4. Christmas tree or other holiday-related merchandise sales lots.
 5. Fireworks stands outside a permanent structure.
 6. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
 7. A Storage (cargo) Container placed on any lot in a Residential zone district shall be limited to no more than 30 days.

4.13.02 Required Conditions of All Temporary Uses

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
2. The Zoning Administrator may refer the temporary use permit to the Planning Commission if there may be conditions necessary to ensure compatibility with surrounding land uses.

4.13.03 Permit Application and Issuance

1. An application to conduct a temporary use shall be made to the Zoning Administrator and shall include at a minimum a description of the proposed use; a diagram of its location; information regarding hours and duration of operation; and other information necessary to evaluate the application.
2. The duration of the permit shall be explicitly stated on the permit approval.

Section 4.14 Prohibited Uses

All uses which are not specifically permitted or are not permissible as a Conditional Use throughout each district of this Ordinance are prohibited until such time as the Ordinance is amended accordingly.

Section 4.15 Fees

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted and published by the City Council by separate Resolution.

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Article 5: Zoning Districts

Section 5.01 Districts: Use

- 5.01.01 For the purpose of this regulation, the Municipality is hereby divided into districts, designated as follows and shown on the Official Zoning Map:
1. The following districts are agricultural districts:
 (TA-1) Transitional Agriculture District
 2. The following districts are residential districts:
 (RE) Residential Estates District
 (R-1) Residential Neighborhood District
 (R-M) Residential Manufactured Home District
 3. The following districts are commercial and industrial districts:
 (DC) Downtown Commercial District
 (GC) General Commercial District
 (FLEX) Flex Commercial/Industrial District
 (I-1) General Industrial District
- 5.01.02 There shall also be established Overlay Zoning Districts as necessary, with certain additional requirements where the requirements of the base zoning districts set out in Section 5.01.01 may or may not be altered:
- (AHO) Airport Hazard Overlay District
 (WPO) Wellhead Protection Overlay District
 (FHO) Flood Hazard Overlay District

Section 5.02 Districts: Boundaries and Official Zoning Map

The boundaries of the districts are hereby established as shown on the map entitled "Official Zoning Map of the City of Burwell, 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.

Section 5.03 Rules for Interpretation of District Boundaries on the Official Zoning Map

- 5.03.01 Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
 3. Boundaries indicated as approximately following City limits shall be construed as following such City limits;
 4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
 5. 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;
 6. 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;

7. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) to (6) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
8. 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 (1) to (7) above, the Board of Zoning Adjustment shall interpret the district boundaries;
9. 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.
10. When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district with the most restrictive requirements may be extended over the entire property without amending the zoning map through the public hearing process.
11. When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

Section 5.04 Land Use Categories Matrix Explanation

- 5.04.01 The Matrix found in Section 5.06 of this Ordinance is a listing of uses that may be allowed within each Zoning District.
1. The different uses are grouped into specific "Land Use Categories".
 2. The "Land Use Categories" are listed in each of the Zoning Districts in lieu of specific uses. It is important to note, if a "Land Use Category" is listed within a specific Zoning District, it DOES NOT indicate every use in the "Land Use Category" is allowed within the specific District.
- 5.04.02 The different uses within the Land Use Matrix in Section 5.06 (following) are:
- Exempt from Permits (E)
 - Permitted (P),
 - Allowed upon approval of a Conditional Use Permit (C),
 - Temporary (T), or
 - Not permitted (-).
- 5.04.03 The following steps are used to determine which specific uses are allowed in which Zoning District.
1. Find the Land Use Type matching the proposed use.
 2. Look across the table and determine which of the Zoning Districts in which it may be allowed.
 3. Check any special criteria for the use(s) by referring to the specific District.
 4. Check where the specific Zoning Districts are by reviewing the Official Zoning Map.
 5. Check the necessary procedures to receive required permits when the property in question is in the control of the Applicant.
 6. The Zoning Administrator makes the final use determination, subject to appeal.
 - A. The US Census Bureau's North American Industry Classification System (NAICS) should be used as a resource to classify different types of Land Use.
- 5.04.04 The Table in Section 5.06 also lists Accessory Uses which may be allowed or not allowed in any specific Zoning District. The Accessory Use listing can be found at the end of the Table.

Section 5.05 Annexation and Conformance with the Land Use Plan

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

- 5.05.01 All areas which may hereafter be brought into the extraterritorial zoning jurisdiction (ETJ) shall be designated as TA-1 Transitional Agriculture zoning district until otherwise changed. Where an area is annexed into the municipal limits, the same district shall continue to apply until otherwise changed.

Section 5.06 Land Use Categories/Matrix

E = Exempt from Permits P = Permitted C = Conditional Use Permit T = Temporary “-“ = not permitted										
Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
Agriculture & Horticulture Uses	Agricultural buildings for general ag use	P	P	-	-	-	-	P	P	
	Agricultural operations, other than LFOs	E	E	-	-	-	-	E	E	
	Aquaculture	C	-	-	-	-	-	P	P	
	Class I Livestock Feeding Operation (LFO)	C	-	-	-	-	-	-	C	Section 9.23
	Class II or larger Livestock Feeding Operation (LFO)	-	-	-	-	-	-	-	-	
	Community Gardens	E	E	E	C	E	E	E	E	
	Conservation Easement	C	C	C	C	C	C	C	C	Section 9.17
	Crop Production	E	E	-	-	-	-	E	E	
	Horses and other non-commercial livestock on residential lots	E	E	-	-	-	-	E	E	
	Irrigation facilities	P	P	-	-	-	-	P	P	
	Livestock for 4-H purposes as a Secondary use	E	E	E	E	-	-	E	E	
	Livestock sales	C	-	-	-	-	-	C	C	
	Stockpiling of dead livestock, manure, or sludge	C	-	-	-	-	-	-	C	
	Tree farms and forestry	E	E	-	-	-	-	E	E	
	Vineyard	E	E	-	-	-	-	E	E	
Agricultural Sales & Service	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for commercial use.	C	-	-	-	-	-	C	C	
	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for on-farm use.	E	-	-	-	-	-	E	E	
	Agriculture feed mixing and blending, seed sales, and grain handling operations (retail/wholesale)	P	-	-	-	-	C	C	C	
	Agricultural implement & vehicle sales and service	C	-	-	-	-	C	C	C	
	Agricultural research farm	P	-	-	-	-	-	C	C	
	Equestrian centers and stables	C	-	-	-	-	-	C	C	
	Winery	C	-	-	-	C	C	C	C	
Residential Living	Dwellings, Single-Family Detached	P	P	P	C	C	C	C	-	
	Mobile Home Dwelling	-	-	-	P	-	-	-	-	Section 5.13
	Manufactured Home Dwelling (HUD Code)	P	P	P	P	C	C	C	-	Section 4.09
	Manufactured Home Dwelling as secondary dwelling	C	-	-	-	-	-	-	C	Section 4.09
	Attached, Two-family/Duplex (2 units)	P	P	P	C	P	C	-	-	
	Attached, Two-family Stacked (2 units)	C	P	P	C	P	C	-	-	
	Attached, Single-family dwelling (up to 4 units)	-	C	P	C	P	C	C	-	
	Attached, Single-family dwelling (5+ units)	-	-	C	-	C	C	C	-	
	Dwellings, Cottage Court	-	-	C	-	C	C	-	-	
	Dwelling, Live-Work Unit (as defined)	P	C	C	-	P	C	C	C	
	Dwelling, Special Types	C	C	C	C	C	C	C	-	Section 9.10
	Dwelling, Triple Stacked	-	C	P	-	P	C	C	-	
	Multi-family dwelling (up to 4 units per parcel)	-	C	P	C	P	C	C	-	
	Multi-family dwelling (5+ units per parcel)	-	-	C	-	P	C	C	-	
	Upper story housing	-	-	-	-	P	C	-	-	
	Seasonal dwelling or cabins	P	-	-	-	-	-	-	-	
	Additional Dwellings for tenants or employees of a farm owner or operator	P	-	-	-	-	-	-	-	
	Living Quarters for watchmen or custodians	-	-	-	-	-	-	P	P	

E = Exempt from Permits P = Permitted C = Conditional Use Permit T = Temporary "-." = not permitted										
Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
Residential/ Commercial Institutions	Adult care home	P	P	P	P	P	P	P	-	
	Assisted Living Facility	-	P	P	-	C	C	C	-	
	Bed and Breakfast Inn	C	C	C	-	C	C	-	-	Section 9.11
	Convent or Monastery	C	C	C	-	C	C	C	-	
	Emergency Residential Shelter/Services	C	P	P	P	P	P	P	C	
	Group Care Home	P	P	P	P	P	P	P	-	
	Group Home	P	P	P	P	P	P	P	-	
	Hospice	P	P	P	P	P	P	P	-	
	Life Care Facility	-	P	C	-	C	C	C	-	
	Nursing Home	-	C	C	-	C	C	C	-	
	Retirement Home	-	C	C	-	C	C	C	-	
	Transitional Housing	P	P	P	P	P	P	P	-	
Community Services/ Civic Uses	Airport/Heliport	C	-	-	-	-	C	C	C	
	Animal shelters	P	-	-	-	C	C	C	P	
	Cemetery	C	C	C	-	C	C	C	-	
	Churches, synagogues, temples & similar	C	P	P	P	P	P	P	C	
	Community center or building	C	C	C	C	P	P	P	P	
	Fire and Rescue facilities	P	P	P	P	P	P	P	P	
	Fraternal Organization	C	C	C	C	P	P	P	P	
	Governmental offices and uses	P	P	P	P	P	P	P	P	
	Law Enforcement Center	P	P	P	P	P	P	P	P	
	Preservation Easement	C	C	C	C	C	C	C	C	Section 9.17
	Public Library, Museum, or Planetarium	P	P	P	P	P	P	P	P	
	Philanthropic organizations	C	C	C	C	P	P	P	P	
	Senior Citizen Centers	C	C	C	C	P	P	P	P	
Treatment, Rehabilitation, Incarceration Facilities	Community correction center	C	-	-	-	-	C	C	C	
	Drug & alcohol rehabilitation center	C	C	-	-	C	C	C	C	
	Halfway house	P	P	P	P	P	P	P	P	
	Public Detention Center	C	-	-	-	-	-	C	C	
	Juvenile Detention Center	C	-	-	-	-	-	C	C	
	Private Prison	C	-	-	-	-	-	-	C	
	Public Prison	C	-	-	-	-	-	-	C	
Day-Care, Public & Private Schools	Adult day-care home	P	P	P	P	P	P	C	-	
	Child Care Center	C	C	C	C	C	C	C	C	
	Child Care Home	P	P	P	P	P	P	P	-	
	Colleges and Universities	C	C	C	-	P	P	P	P	
	Day care center	C	C	C	C	C	C	C	C	
	Family Child Care Home II	C	C	C	C	C	C	C	C	
	Family Child Care Home I	P	P	P	P	P	P	P	P	
	Preschools	C	P	P	P	P	C	C	C	
	Public & private schools (K-12)	C	C	C	-	P	P	P	C	
	Trade, career & technical schools	C	C	C	-	P	P	P	P	
Public Parks & Open Space	Arboretums	P	P	P	P	P	P	P	P	
	Athletic fields	P	P	P	C	P	P	P	P	
	Campground	C	C	C	C	-	C	C	-	Section 9.13
	Nature centers	P	-	-	-	-	P	P	P	
	Parks, trails, picnic areas, & playgrounds	P	P	P	P	P	P	P	P	
	Public pools and/or water parks	P	P	P	P	P	P	P	-	

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Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
Public/Private Utilities and Communication Services	Battery Energy Storage Systems (BESS)	C	-	-	C	C	C	C	C	Section 10.02
	Oil & natural gas facilities	C	-	-	-	-	-	C	C	
	Pipelines	C	C	C	C	C	C	C	C	
	Private Wells	P	P	-	-	-	-	P	P	
	Public works facilities incl. storage/maintenance	P	P	P	P	P	P	P	P	
	Amateur radio and tower transmitter (Shortwave and Ham operations) up to 75 feet in height	P	P	P	P	P	P	P	P	Section 9.21
	Amateur radio and tower transmitter (Shortwave and Ham operations) over 75 feet in height	C	C	C	C	C	C	C	C	Section 9.21
	Solar Conversion System, Neighborhood or Commercial	C	C	C	C	C	C	C	C	Section10.03
	Wireless telecommunication facilities sys. - new tower	C	C	C	C	C	C	C	C	Section 9.20
	Wireless telecommunication facilities sys. - collocated	P	P	P	P	P	P	P	P	Section 9.20
	Wind Energy Conversion Systems (WECS) – Commercial/Utility Scale	C	C	C	C	C	C	C	C	Section 10.05
Animal Care	Animal hospital/veterinarian	P	C	-	-	P	P	P	P	
	Animal Shelter	C	-	-	-	C	C	P	P	
	Kennel boarding or training	P	-	-	-	-	C	P	P	
	Kennel, commercial	P	-	-	-	-	C	P	P	
	Kennel, private	P	C	-	-	-	-	C	P	
	Pet cemetery	C	C	-	-	-	-	C	C	
	Pet crematorium	C	-	-	-	-	-	C	P	
	Pet grooming and training	P	C	C	-	P	P	P	P	
Business and Household Services	Building maintenance & cleaning services	C	-	-	-	P	P	P	P	
	Copying, printing, mailing, & packaging services	C	-	-	-	P	P	P	P	
	Lawn, garden & yard maintenance services	C	-	-	-	P	P	P	P	
	Locksmiths and key duplication	C	-	-	-	P	P	P	P	
	Pest control services	C	-	-	-	C	P	P	P	
	Septic services and tank cleaning	C	-	-	-	-	C	P	P	
	Small appliances & household equipment repair	C	-	-	-	P	P	P	P	
	Well drilling	C	-	-	-	-	C	P	P	
Financial Services	Banks	-	-	-	-	P	P	P	-	
	Automatic Teller Machine (ATM)	-	-	-	-	P	P	P	-	
	Brokerages	-	-	-	-	P	P	P	-	
	Credit Unions	-	-	-	-	P	P	P	-	
	Insurance offices	-	-	-	-	P	P	P	-	
	Financial advisory services	-	-	-	-	P	P	P	-	
	Specialty loan services	-	-	-	-	C	C	C	-	
Food And Beverage Services	Banquet/reception facility	C	-	-	-	P	C	C	-	
	Bar or tavern	-	-	-	-	P	P	C	C	
	Brew-on Premises Store	-	-	-	-	P	P	P	C	
	Brewery	-	-	-	-	C	C	C	C	
	Brew pub	-	-	-	-	P	P	C	C	
	Craft Brewery (Commercial)	C	-	-	-	P	P	C	C	
	Micro-brewery (Commercial)	C	-	-	-	P	P	C	C	
	Catering service	C	-	-	-	P	P	C	C	
	Coffee houses, coffee shops	-	-	-	-	P	P	P	C	
	Coffee kiosks	-	-	-	-	C	P	P	C	
	Restaurants – Indoor seating	-	-	-	-	P	P	P	C	
	Restaurants – Outdoor seating	-	-	-	-	P	P	C	-	
	Restaurants – Drive-In	-	-	-	-	-	C	C	-	

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Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
	Roadside stands	T	T	T	-	T	T	T	T	Section 9.15
	Mobile Food Units	T	-	-	-	T	T	T	T	Section 9.14
General Commercial	Antiques and collectables shop	-	-	-	-	P	P	P	-	
	Art galleries and studios	C	-	-	-	P	P	P	-	
	Artisan production shop	C	-	-	-	P	P	P	-	
	Book, card, and articles stores	-	-	-	-	P	P	P	-	
	Business Center	-	-	-	-	P	P	P	P	
	Clothing & accessories	-	-	-	-	P	P	P	-	
	Computer hardware/software sales	-	-	-	-	P	P	P	-	
	Dance studios & schools	-	-	-	-	P	P	P	-	
	Electronic/appliance sales & service	-	-	-	-	P	P	P	-	
	Equipment sales/rental	-	-	-	-	C	P	P	-	
	Equipment repair services	-	-	-	-	C	P	P	P	
	Fabric and sewing supply stores	-	-	-	-	P	P	P	-	
	Farmer's Market	P	-	-	-	P	P	P	P	
	Firearms and ammunition sales	C	-	-	-	C	C	C	C	
	Florists	C	-	-	-	P	P	P	P	
	Food store (specialty) including bakeries, butchers (no slaughter on-site), delicatessen (not a full-service grocery)	-	-	-	-	P	P	P	P	
	Funeral homes and mortuaries, including crematoriums	C	-	-	-	P	P	P	P	
	Garden center	C	-	-	-	C	P	P	P	
	Gift store	-	-	-	-	P	P	P	-	
	Grocery	-	-	-	-	P	P	P	-	
	Hardware store	-	-	-	-	P	P	P	P	
	Lawn and garden equipment sales and service	-	-	-	-	P	P	P	P	
	Photographic equipment & supplies	-	-	-	-	P	P	P	-	
	Pottery store	-	-	-	-	P	P	P	-	
	Secondhand store, thrift or consignment store	-	-	-	-	P	P	P	-	
	Self-services laundry and Laundromat	-	-	-	-	P	P	P	-	
	Tanning Studio	-	-	-	-	P	P	P	-	
	Taxidermy Services	-	-	-	-	P	P	P	P	
Special Commercial	Barber Shop or Hairdresser	C	C	C	C	P	P	P	P	
	Commercial greenhouses	C	C	-	-	C	P	P	P	
	Concrete and cinder block sales	-	-	-	-	C	P	P	P	
	Convenience store	-	-	-	-	C	C	C	C	
	Fencing dealers	-	-	-	-	C	P	P	P	
	Fireworks stands (permanent structures)	-	-	-	-	C	P	P	P	
	Gasoline/EV filling stations	-	-	-	-	C	C	C	C	
	Heating and cooling sales and services	-	-	-	-	C	P	P	P	
	Liquor stores/sales	-	-	-	-	C	P	P	P	
	Lumber Yard and Building Material Sales	-	-	-	-	C	P	P	P	
	Monument sales	-	-	-	-	C	P	P	P	
	Motels and hotels	C	-	-	-	C	C	C	C	
	Nurseries, retail sales	C	-	-	-	C	P	P	P	
	Piercing Studio	-	-	-	-	-	C	P	P	
	Tattoo Parlor	-	-	-	-	-	C	P	P	
Medical Uses	Acupuncture offices	-	-	-	-	P	P	P	-	
	Chiropractor offices	-	-	-	-	P	P	P	-	
	Dental offices incl. orthodontics	-	-	C	-	P	P	P	-	
	Hospital	-	-	-	-	C	C	C	-	
	Massage therapy	-	-	-	-	P	P	P	-	
	Medical offices and clinics	-	-	C	-	P	P	P	-	
	Optical sales & services	-	-	-	-	P	P	P	-	

E = Exempt from Permits P = Permitted C = Conditional Use Permit T = Temporary "-" = not permitted										
Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
	Rehabilitation facilities including out-patient services	-	-	-	-	P	P	P	-	
Office Uses	Accountant and investment counseling	-	-	C	-	P	P	P	-	
	Business offices	-	-	C	-	P	P	P	P	
	Consultant offices	-	-	C	-	P	P	P	P	
	Lawyer/Attorney offices	-	-	C	-	P	P	P	P	
	Photographic studios	-	-	-	-	P	P	P	-	
	Real Estate offices	-	-	C	-	P	P	P	P	
	Technical Office for Research and Development	-	-	-	-	P	P	P	P	
	Utility and telephone company offices	-	-	-	-	P	P	P	P	
Recreational Commercial	Amusement arcade	-	-	-	-	P	P	P	C	
	Bowling alley	-	-	-	-	P	P	P	C	
	Golf courses, public & private	P	P	C	-	-	C	-	-	
	Golf driving ranges	P	-	-	-	-	C	P	C	
	Miniature golf courses	-	-	-	-	P	P	C	C	
	Paintball Course	C	C	-	-	-	-	C	C	
	Recreational facility, Indoor	C	-	-	-	P	P	C	C	
	Recreational facility, outdoor	C	C	-	-	C	C	C	C	
	Recreational Vehicle (RV) Park	C	C	-	C	-	C	C	C	Section 9.13
	Shooting Range, Gun Range, or Archery Range	C	-	-	-	-	-	C	C	
	Shooting Sports (Archery or Gun Club) Indoors	C	-	-	-	C	C	P	P	
Auto Services/ Commercial	Auto body repair	-	-	-	-	-	C	P	P	Section 9.05
	Automotive/machinery repair shop	-	-	-	-	C	C	P	P	Section 9.05
	Automobile/truck sales, rental & leasing	-	-	-	-	C	C	P	P	Section 9.05
	Automobile/truck washes, self-services or automatic	-	-	-	-	-	C	P	P	Section 9.05
	Motor home dealers	-	-	-	-	-	C	P	P	Section 9.05
	Motorcycle dealers, incl. moped and scooters	-	-	-	-	C	C	P	P	Section 9.05
	Muffler sales & services	-	-	-	-	-	C	P	P	Section 9.05
	Recreational vehicle sales & rentals	-	-	-	-	-	C	P	P	Section 9.05
	Transmission repair shops	-	-	-	-	C	C	P	P	Section 9.05
	Travel trailer dealers	-	-	-	-	-	C	P	P	Section 9.05
	Vehicle Storage	-	-	-	-	-	C	P	P	Section 9.05
	Vehicle Storage, Long-term	-	-	-	-	-	C	P	P	Section 9.05
Trailer, RV, & boat storage	-	-	-	-	-	C	P	P	Section 9.05	
Adult Uses	Adult Entertainment	P	-	-	-	P	P	P	P	Section 9.18
Warehousing & Storage.	Fireworks storage	-	-	-	-	-	-	C	P	
	Mini-warehousing & self-service storage	-	-	-	-	-	C	C	P	Section 9.08
	Motor Freight Terminals	-	-	-	-	-	C	C	C	
	Outdoor Storage	C	-	-	-	-	C	P	P	Section 9.05
	Portable on-demand storage (PODS) facility	-	-	-	-	-	C	C	C	Section 9.09
	Wholesale distribution and warehouse	C	-	-	-	-	C	P	P	
	Warehousing (enclosed)	C	-	-	-	-	C	P	P	
	Warehousing (open)	C	-	-	-	-	-	C	C	
Contractors, Contractor Yards, Storage & Supply	Bulk materials or machinery storage (enclosed)	C	-	-	-	-	C	P	P	
	Carpenters	C	-	-	-	C	P	P	P	
	Carpet & rug cleaning plants	-	-	-	-	-	C	P	P	
	Construction batch plants	C	-	-	-	-	C	P	P	
	Construction yards incl. offices & equipment storage yards excl. heavy machinery	C	-	-	-	-	C	P	P	

E = Exempt from Permits P = Permitted C = Conditional Use Permit T = Temporary “-” = not permitted Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
	Electricians	C	-	-	-	C	P	P	P	
	Heating & ventilating contractors	C	-	-	-	C	P	P	P	
	Masons & bricklayers	C	-	-	-	C	P	P	P	
	Plumbers	C	-	-	-	C	P	P	P	
	Trade shops (incl. cabinet makers)	C	-	-	-	C	P	P	P	
Large Contracting/ Materials Manufacturing	Asphalt contractors	-	-	-	-	-	-	C	P	
	Concrete block manufacturing	-	-	-	-	-	-	C	P	
	Concrete contractors	C	-	-	-	-	-	C	P	
	Concrete products	C	-	-	-	-	-	C	P	
	Excavating contractors	C	-	-	-	-	-	C	P	
	Heavy construction companies	C	-	-	-	-	-	C	P	
	Highway/street construction contractors	C	-	-	-	-	-	C	P	
	Manufactured housing fabrication	-	-	-	-	-	-	C	P	
	Prefabricated buildings & components manufacturing	-	-	-	-	-	-	C	P	
	Wrecking & demolition contractors	-	-	-	-	-	-	C	P	
Food Processing	Bakery Products Manufacturing	-	-	-	-	C	C	P	P	Section 9.04
	Beverage Blending and Bottling (Except Breweries)	-	-	-	-	-	C	P	P	Section 9.04
	Butcher or Meat Locker with on-site slaughter	C	-	-	-	C	C	P	P	Section 9.04
	Coffee, Tea and Spice Processing and Packaging	-	-	-	-	-	C	P	P	Section 9.04
	Creamery and Dairy Operations	C	-	-	-	-	C	P	P	Section 9.04
	Dairy Products Manufacturing	C	-	-	-	-	C	P	P	Section 9.04
	Egg Processing Plants	C	-	-	-	-	C	P	P	Section 9.04
Mining & Excavation	Brick, firebrick, and clay products manufacturing	-	-	-	-	-	-	C	C	Section 9.04
	Monument & architectural stone manufacturing	-	-	-	-	-	-	C	C	Section 9.04
	Quarry or Sand/Gravel Pit	C	-	-	-	-	-	C	C	Section 9.16
Metal Manufacturing	Agricultural machinery manufacturing	-	-	-		-	-	C	P	Section 9.04
	Culvert manufacturing	-	-	-		-	-	C	P	Section 9.04
	General manufacturing	-	-	-		C	C	C	P	Section 9.04
	Welding	-	-	-		C	C	C	P	Section 9.04
	Wire Rope and cable manufacturing	-	-	-		-	-	C	P	Section 9.04
Waste Handling	Landfill, Construction Material	C	-	-	-	-	-	-	C	
	Landfill, Solid Waste	C	-	-	-	-	-	-	C	
	Junkyard or Salvage Yard	-	-	-	-	-	-	-	C	Section 9.07
	Recycling Center	-	-	-	-	-	C	C	C	
	Recycling Processing	-	-	-	-	-	-	C	C	
	Sanitary Transfer Station	-	-	-	-	-	-	C	C	
General Manufacturing	Agricultural Processing other than Food	C	-	-	-	-	C	P	P	Section 9.04
	Electronics manufacturing	-	-	-	-	-	C	P	P	Section 9.04
	Machinery manufacturing	-	-	-	-	-	C	P	P	Section 9.04
	Millwork manufacturing	-	-	-	-	-	C	P	P	Section 9.04
	Musical instruments manufacturing	-	-	-	-	-	C	P	P	Section 9.04
	Tool, die, gauge, and machine shops	-	-	-	-	-	C	P	P	Section 9.04

E = Exempt from Permits P = Permitted C = Conditional Use Permit T = Temporary “-“ = not permitted										
Overlay District and Floodplain regulations shall also be met.										
Use Category	Use Type	Land Use District								Additional Requirements
		TA	R-E	R-1	RM	DC	GC	FLEX	I-1	
Manufacturing (High Hazard)	Biofuels and Distillation Manufacturing, including Ethanol	-	-	-	-	-	-	-	C	Section 9.04 and Section 9.19
	Data Center	-	-	-	-	-	-	-	C	Section 9.22
	Grain Elevator and Storage Facilities	C	-	-	-	-	C	P	P	
	Scrap or Salvage Operations/Yards	-	-	-	-	-	-	-	C	Section 9.07
	Wind turbine manufacturing	-	-	-	-	-	-	-	C	Section 9.04
	Wood Preserving Treatment	-	-	-	-	-	-	-	C	Section 9.04
Accessory Uses (See Section 4.07)	ADU—accessory to Principal Structure, including Dwellings, Special Types	C	C	C	C	C	P	P	P	Section 9.10
	Barns	P	P	P	-	P	P	P	P	
	Battery Energy Storage Systems (BESS)	C	C	C	C	C	C	C	C	Section 10
	Bins, silos, grain storage	P	-	-	-	-	-	P	P	
	Dwelling, Caretaker’s Quarters	P	-	-	P	P	P	P	P	
	Decks, gazebos, patios (elevated or on-grade)	P	P	P	P	P	P	P	P	
	Drive-Throughs	-	-	-	-	C	C	P	P	
	Fences	P	P	P	P	P	P	P	P	Sections. 4.04, 4.06, 9.03
	Firearms and ammunition sales (home-based)	C	C	C	C	C	C	C	C	Section 9.01 and 9.02
	Freestanding canopy	P	P	P	P	C	P	P	P	
	Fuel tanks and dispensing equipment	P	-	-	-	C	P	P	P	
	Garage, Private and Storage	P	P	P	P	-	-	P	P	Section 4.07
	Carports	P	P	P	P	-	-	P	P	Section 4.07
	Greenhouses, Non-commercial	P	P	P	P	-	-	-	P	
	Home Occupations	P	P	P	P	-	-	-	-	Section 9.01 and 9.02
	Home-based Businesses	P	P	P	P	-	-	-	-	Section 9.01 and 9.02
	Household pets accessory to a dwelling	P	P	P	P	P	P	P	P	
	Roadside Produce Stand (Accessory to Principal use)	P	P	-	-	-	-	P	-	Section 9.15
	Storage shed	P	P	P	P	-	P	P	P	
	Storage (cargo) Container	C	T	T	T	C	C	C	C	Section 4.13 and 9.09
	Swimming pool	P	P	P	P	C	C	C	C	Section 4.12
	Tennis courts	P	P	P	P	P	P	P	P	
	Solar energy systems for use on individual buildings	P	P	P	P	P	P	P	P	Section 10.03
	Small Wind Energy System	P	C	C	C	C	P	P	P	Section 10.04
	Vending Machines	C	C	C	P	P	P	P	P	
	Vending Machine, Reverse	-	-	-	-	P	P	P	P	

Section 5.07 Section Reserved for Future Use.

Section 5.08 TA-1 Transitional Agriculture District

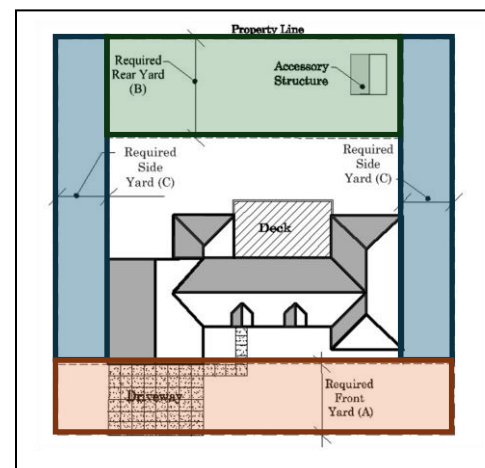
- 5.08.01 Intent:
The TA-1 Transitional Agriculture District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. As these areas are not typically located in the identified growth areas for the community, the district is designed to limit urban sprawl and protect agricultural operations.
- 5.08.02 Permitted Uses:
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.08.03 Conditional Uses:
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.08.04 Temporary Uses:
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.
- 5.08.05 Accessory Uses and Structures:
Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District. See also Section 4.07.
- 5.08.06 Height and Lot Requirements:
The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Dwellings	3.0	300	50	50	50	-	-
Other Permitted Uses	3.0	300	50	50	50	-	-
Conditional Uses	3.0	300	50	50	50	-	-
Accessory Structures	-	-	50	50	50	-	-

* Front/rear/side yard setback shall be 83 feet from the centerline of a County Road or shall be 50 feet when abutting any other platted street, road, or highway.

See also Section 4.05.05 Waivers.

** On lots of record, the rear yard may be reduced to 20% of the depth of the lot.



5.08.07 Other Applicable Provisions:

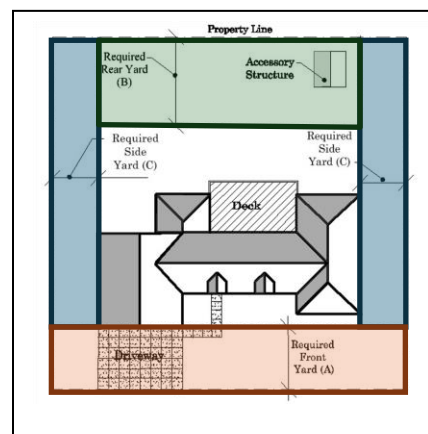
1. The following uses shall be a minimum of 2,640 feet (1/2-mile) from any residential, commercial, industrial, or public use, as measured from the nearest point on the lot line.
 - A. Commercial auction yards or barns.
 - B. Commercial production and husbandry of poultry, fish, and small animals.
 - C. Commercial feedlots.
 - D. Mining and extraction of natural resources.
 - E. Feed mills.
 - F. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
 - G. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
2. No new residential, commercial, industrial, or public use shall be located nearer than 2,640 feet (1/2-mile) to any existing use listed in Section 5.08.07(1) above.
3. Manufactured Homes (HUD Code) shall be placed on a permanent foundation.

Section 5.09 RE Residential Estates

- 5.09.01 Intent:
The RE Residential Estates district is intended to provide for low-density residential neighborhoods, characterized by single-family dwellings on large lots, served by onsite wastewater treatment systems (OWTS) until sewer service is available. Regulations are intended to assure that density is consistent with the carrying capacity of infrastructure.
- 5.09.02 Permitted Uses:
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.09.03 Conditional Uses:
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.09.04 Temporary Uses:
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.
- 5.09.05 Accessory Uses and Structures:
Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District. See also Section 4.07.
- 5.09.06 Height and Lot Requirements:
The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)#	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Dwellings	3.0	150	25	25	25	35	30
Other Permitted Uses	3.0	150	25	25	25	35	30
Conditional Uses	3.0	150	25	25	25	35	30
Accessory Structures	-	-	25	25	25	35	30

- # If lot is connected to municipal water or municipal sewer, then the minimum lot size shall be one acre (43,560) square feet; or greater if required by the Nebraska Department of Environment and Energy (NDEE).
- * Front/rear/side yard setback shall be 58 feet from the centerline of a County Road or shall be 25 feet when abutting any other platted street, road or highway.
See also Section 4.05.05 Waivers.
- ** On lots of record, the rear yard may be reduced to 20% of the depth of the lot.



5.09.07 Supplemental Residential Regulations

1. Single-family Attached/Townhouses and Condominiums
 - A. Common wall shall have a zero-lot line setback and be located on the property line separating both dwellings.
 - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
 - C. Each unit shall be serviced by separate facilities.
 - D. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit.
 - E. No more than four (4) units shall be connected in this district.
2. Manufactured Homes (HUD Code) shall be placed on a permanent foundation.

Section 5.10 R-1 Residential Neighborhood District

- 5.10.01 Intent:
The R-1 District is intended to provide for small town residential neighborhoods, characterized by a mix of dwellings with supporting community facilities.
- 5.10.02 Permitted Uses:
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.10.03 Conditional Uses:
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.10.04 Temporary Uses:
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.
- 5.10.05 Accessory Uses and Structures:
Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District. See also Section 4.07.
- 5.10.06 Height and Lot Requirements:
The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. ft.)	Lot Width (feet) #	A Front Yard (feet) *	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling	5,000	50	25	25	8/10	35	50
Single-family attached (2 units)	2,500/unit	25/unit	25	25	8/10	35	50/unit
Two-family dwelling/duplex	5,000	50	25	25	8/10	35	50
Townhouses (more than 2 units)	2,500/unit	20/unit	25	25	8/10	35	50
Multi-family	Per Unit						
1-story	3,000	50	25	25	8	35	50
2-story	2,000	60	25	30	10	40	50
3-story	1,000	70	25	35	15	45	50
Other Permitted Uses	6,000	60	25	25	8/10	35	50
Conditional Uses	6,000	60	25	25	8/10	35	50
Accessory Structures	-	-	25	5**	5	25	30

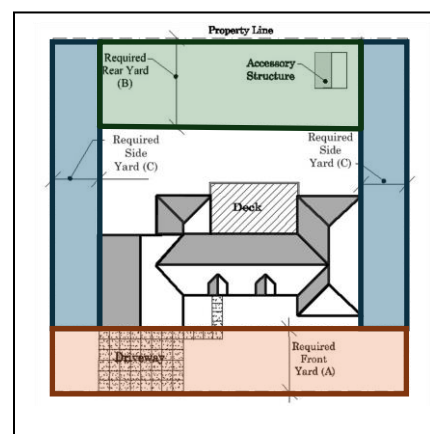
Minimum Lot Width shall be increased by 25 feet for a corner lot. The minimum lot width for Townhouses with more than two units shall be 20 feet for interior units and 40 feet for the exterior units. See Section 5.10.07 following for additional requirements.

* See also Section 4.05.05 Waivers.

** On lots of record, the rear yard may be reduced to 20% of the depth of the lot.

See Section 4.07.02 for alley-facing garages.

*** 8 ft for single-story or 10 feet for 2+ stories.



5.10.07 Supplemental Residential Regulations

1. Single-family Attached/Townhouses and Condominiums
 - A. Common wall shall have a zero-lot line setback and be located on the property line separating both dwellings.
 - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
 - C. Each unit shall be serviced by separate facilities.
 - D. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit.
2. Manufactured Homes (HUD Code) shall be placed on a permanent foundation.

Section 5.11 Reserved

This Section reserved for future residential district use.

Section 5.12 Reserved

This Section reserved for any future mixed use residential-commercial district.

Section 5.13 RM Residential Manufactured Home Park District

- 5.13.01 Intent:
The RM Residential Manufactured Home Park District recognizes that manufactured home development (mobile home parks), properly planned, can provide important opportunities for affordable housing. It provides opportunities for manufactured home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.
1. This section is intended to compliment the requirements of Article VI—Mobile Homes, Recreational Vehicles, Trailers, and Trailer Courts in the City of Burwell Municipal Code.
- 5.13.01 Permitted Uses:
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.13.02 Conditional Uses:
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.13.04 Temporary Uses:
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit, as provided in Section 4.13.
- 5.13.05 Accessory Uses and Structures:
Accessory Uses and Structures are allowed as provided in Table 5.06 and relevant sections of Article 4 and Article 9.
- 5.13.06 Height and Lot Requirements
1. Structures built outside of an approved Manufactured Home Park shall meet the dimensional bulk requirements of the R-1 Residential District (Section 5.11.06).
 2. A manufactured home development shall have a developable area of not less than two acres. No manufactured or mobile homes or other structures shall be located less than 65 feet from the road centerline when contiguous to or having frontage to a County Road or 25 feet when contiguous to a State Highway. The setback on all other court property lines shall be 10 feet. These areas shall be landscaped. The minimum lot depth in a mobile home court shall be 200 feet.
 3. A Park or Court shall have minimum 20 foot yard setback on all side of the overall site.
 4. The Park or Court shall have direct access to an improved public street with right-of-way at least 50 feet in width and a minimum length of 100 feet to permit the entrance and exit of homes from the site.
- 5.13.07 Special Design Criteria for this District
1. Each space provided for occupancy of a single manufactured or mobile home dwelling shall have an area of not less than 2,000 square feet, excluding road right-of-way, and a width of not less than 40 feet.
 - A. Double-wide homes may not be placed on spaces of less than 4,000 square feet.
 2. Each individual space shall provide pad sites, so each home is separated by at least 15 feet.
 3. There shall be a minimum livable floor area of 500 square feet in each mobile home.
 4. Height of buildings shall be:
 - A. Maximum height for principal uses shall be 35 feet.
 - B. Maximum height for accessory uses shall be 10 feet.

5. Each lot shall have access to a hard surface drive not less than 24 feet in width, excluding parking.
 - A. Walkways not less than four feet wide shall be provided from each space to service buildings. Lighting shall be provided, downcast, sufficient for public safety.
6. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with design standards for the City. The water supply shall be sufficient for domestic use and for fire protection.
7. Service buildings including adequate laundry and drying facilities. Common toilet facilities for mobile homes which do not have these facilities within each unit may be provided.
8. Storm shelters shall be required and shall meet the following criteria:
 - A. Shelter space equivalent to two persons per mobile home lot,
 - B. Designed in conformance with "National Performance Criteria for Tornado Shelters" by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
 - C. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
9. All pad locations shall be hard surfaced with properly reinforced poured-in-place concrete.
 - A. All units shall be secured to the ground as recommended by the manufacturer.
 - B. The unit stand shall be of incombustible materials and shall not shift or settle unevenly under the weight of the unit due to frost action, inadequate drainage, vibration, or other forces acting upon the super-structure.
10. Not less than 10 percent of the total Manufacture Home Park area shall be designated and used for park, playground and recreational purposes.
11. Each manufactured or mobile home dwelling shall be provided with a paved patio or equivalent, other than parking spaces, of not less than 150 square feet.
12. Enclosures, such as covered porches, shall meet building codes as adopted by the City, and maintain required separation distances between units.

5.13.08 Site Plan Requirements

1. All legal lots must be platted in accordance with the Subdivision Regulations of the City of Burwell.
2. A complete site plan of the manufactured home development shall be submitted for approval showing:
 - A. A development plan and grading plan.
 - B. The area and dimensions of the tract of land.
 - C. The number, location, and size of all home spaces.
 - D. The area and dimensions of park, playground and recreation areas.
 - E. The location and width of roadways and walkways.
 - F. The location of service buildings and any other proposed structures.
 - G. The location of water and sewer lines and sewage disposal facilities.
 - H. Plans and specifications of all buildings and other improvements constructed or to be constructed within the development.

5.13.09 Supplemental Residential Regulations

1. The RM Residential Manufactured Home District is the only zoning district in which a Mobile Home, as defined, may be placed.

Section 5.14 DC Downtown Commercial District**5.14.01 Intent:**

The DC district is intended to provide appropriate development regulations for the traditional downtown area. Mixed uses are encouraged within the DC District, promoting activities which would have a positive effect on the town center. The grouping of uses is designed to strengthen the town center's role as the core of trade, service, and civic life.

5.14.02 Permitted Uses:

Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.

5.14.03 Conditional Uses:

Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.

5.14.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.

5.14.05 Accessory Uses and Structures:

Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.

5.14.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	0	0	0	75	100
Conditional Uses	-	-	0	0	0	75	100
Accessory Structures	-	-	0	0	0	35	30

5.14.07 Use Limitations:

1. No outdoor storage is permitted, except the display of merchandise for sale to the public.
2. Parking, including sales or rental lots, shall be drained and surfaced with crushed rock or pavement, except those areas maintained in landscaping.

5.14.08 Performance Standards:

1. Standards of Section 9.04 shall apply.
2. Any application for a zoning permit and/or a conditional use permit in the DC Downtown Commercial District shall include a site development plan for review and approval.

Section 5.15 GC General Commercial District

- 5.15.01 Intent:
The GC General Commercial district is intended for areas within the community outside downtown suitable for commercial use, with proper site design and improvement.
- 5.15.02 Permitted Uses:
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.15.03 Conditional Uses:
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.15.04 Temporary Uses:
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.
- 5.15.05 Accessory Uses and Structures:
Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.

5.15.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)#	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	10,000	80	50	20	10	50	50
Conditional Uses	10,000	80	50	20	10	50	50
Accessory Structures	10,000	-	50	20	10	35	30

If lot is not connected to municipal water and sewer, then the minimum lot size shall be 3 acres.

* Front/rear/side yard setback shall be 83 feet from the centerline of a State or County Road or shall be 50 feet when abutting any other platted street, road of highway.
Where NO parking is present in the front yard, the front yard setback may be reduced to 58 feet from the centerline of a State or County Road or 25 feet when abutting any other platted street, road of highway.

5.15.07 Use Limitations:

1. All business, services, and processes, including storage, shall be conducted entirely within a completely enclosed structure, or screened by a solid fence or wall with a height of six feet (provided no materials or equipment shall be stored to a height greater than the fence/wall), except for:
 - A. Off-street parking and loading areas
 - B. Gasoline/EV filling station
 - C. Automobile/truck, motor home, recreational vehicle, or travel trailer sales
 - D. Outdoor dining
 - E. Plant nursery or garden center
 - F. Public and utility uses and structures.
2. At least 25% of the required front yard shall be maintained in landscaping.
3. On side or rear lot lines adjacent to any Residential District, opaque screening such as a fence, wall, or hedge shall be provided extending from the Front Yard setback line along side yard lines, excluding lot lines along improved alleys.
4. Parking, including sales or rental lots, shall be drained and surfaced with crushed rock or pavement, except those areas maintained in landscaping.
5. Manufactured Homes (HUD Code) shall be placed on a permanent foundation.

5.15.08 Performance Standards:

1. Standards of Section 9.04 shall apply.
2. Any application for a zoning permit and/or a conditional use permit in the GC General Commercial District shall include a site development plan for review and approval.

Section 5.16 Reserved

This Section reserved for any future higher-intensity commercial district.

Section 5.17 FLEX Commercial/Industrial District

- 5.17.01 **Intent:**
The FLEX Commercial/Industrial District is intended to provide standards in areas suitable for limited commercial, industrial, 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, especially residential properties.
- 5.17.02 **Permitted Uses:**
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.17.03 **Conditional Uses:**
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.17.04 **Temporary Uses:**
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.
- 5.17.05 **Accessory Uses and Structures:**
Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.

5.17.06 **Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)#	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)***	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	5,000	50	25	20	10	50	50
Conditional Uses	5,000	50	25	20	10	50	50
Accessory Structures	5,000	-	25	20	10	35	30

If lot is not connected to municipal water and sewer, then the minimum lot size shall be 3 acres.

* Front/Rear/Side yard setback shall be 83 feet from the centerline of a State or County Road or shall be 50 feet when abutting any other platted street, road or highway.

** Side Yard of 20 feet required adjacent to agricultural and residential zone districts.

*** Rear Yard of 35 feet required adjacent to agricultural and residential zone districts.

5.17.07 **Use Limitations:**

1. Outdoor storage shall be screened by a solid fence or wall with a height of at least six feet (provided no materials or equipment shall be stored to a height greater than the fence/wall).
2. On side or rear lot lines adjacent to any Residential District, opaque screening such as a fence, wall, or hedge shall be provided extending from the Front Yard setback line along side yard lines, excluding lot lines along improved alleys.
3. Manufactured Homes (HUD Code) shall be placed on a permanent foundation.

5.17.08 Performance Standards:

1. Standards of Section 9.04 shall apply.
2. Any application for a zoning permit and/or a conditional use permit in the FLEX Commercial/Industrial District shall include a site development plan for review and approval.

Section 5.18 I-1 General Industrial District

- 5.18.01 **Intent:**
The I-1 Industrial district is intended to protect sites appropriate for the location of industrial uses with relatively limited environmental effects, buffered from residential districts. The district is designed to provide appropriate space and regulations to encourage industrial development, while assuring that facilities are served with adequate access and off-street parking.
- 5.18.02 **Permitted Uses:**
Permitted Uses are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.
- 5.18.03 **Conditional Uses:**
Conditional Uses are allowed according to the table in Section 5.06, as recommended by the Planning Commission and approved by the City Council.
- 5.18.04 **Temporary Uses:**
Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.13.
- 5.18.05 **Accessory Uses and Structures:**
Accessory uses and structures are allowed according to the table in Section 5.06, provided the use and/or structure meet the minimum bulk requirements of the District.

5.18.06 **Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.) #	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)***	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	10,000	50	50	25	10	75	-
Conditional Uses	10,000	50	50	25	10	75	-
Accessory Structures	10,000	-	50	25	10	75	30

If lot is not connected to municipal water and sewer, then the minimum lot size shall be 3 acres.

* Front/Rear/Side yard setback shall be 83 feet from the centerline of a State or County Road or shall be 50 feet when abutting any other platted street, road or highway.

** Side Yard of 20 feet required adjacent to agricultural and residential zone districts.

*** Rear Yard of 35 feet required adjacent to agricultural and residential zone districts.

5.18.07 **Use Limitations:**

1. Outdoor storage shall be screened by a solid fence or wall with a height of at least six feet (provided no materials or equipment shall be stored to a height greater than the fence/wall).
2. On side or rear lot lines adjacent to any Residential District, opaque screening such as a fence, wall, or hedge shall be provided extending from the Front Yard setback line along side yard lines, excluding lot lines along improved alleys.
3. Storage (above ground or below ground) of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot of less than 1 acre in area, nor shall storage exceed more than 25,000 gallons in one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall not be located closer than 50 feet from any structure intended for human habitation or closer than 200 feet from any Residential District.
4. All open and un-landscaped portions of any lot shall be maintained in good condition free from weeds, dust, trash, and debris.

- 5.18.08 **Performance Standards:**
Standards of Section 9.04 shall apply.

5.18.09 Site Plan Approval

An application for a zoning permit and/or a conditional use permit in the I-1 Industrial District shall include a detailed site development plan for review and approval which shall include the following information:

1. A topographic map of the area showing contour intervals and other significant physical features of the land.
2. An area map showing streets, roads, railroads, all public improvements, utility easements and facilities, parks and recreation areas, and other buildings and structures including any existing structure on the applicant's property.
3. An exact site plan of the lot showing:
 - A. Building location and setbacks.
 - B. Number and size of parking spaces including ADA parking.
 - C. Location of landscaping.
 - D. Exact or projected traffic flow on the premises including delivery traffic and delivery docks and/or areas.
 - E. Location and exact size of any outdoor sales area.
 - F. Location of utilities including sewer, water, natural gas or propane, electrical, telephone, storm sewers and/or retention ponds.
 - G. Signs.
4. The Zoning Administrator may ask for any other necessary information to be added to the site plan prior to review.
5. Any changes made to the site plan during construction must be approved by the Zoning Administrator and a Site Plan Amendment filed by the Applicant.

Section 5.19 Reserved

This Section reserved for future use.

Section 5.20 Reserved

This Section reserved for future use of a Planned Unit Development (PUD) Overlay District, if and when necessary.

Section 5.21 AHO Airport Hazard Overlay District

In accordance with Neb. Rev. Stat. §3-303, every political subdivision which has adopted a comprehensive plan and zoning regulations and has an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

5.21.01 Intent:

The intent of this district is be appended and to overlay any of the primary zoning districts as described in this regulation to protect the safe use of public airports and their Airport Hazard Area, in the jurisdiction of the City of Burwell, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are registered with the Nebraska Department of Aeronautics, as designated on the Official Zoning Map of Burwell, Nebraska.

1. Designated Public Airport

The designated public airport for which these regulations have been prepared for is the Burwell Municipal Airport.

5.21.02 Definitions

Unless more specifically defined below, all definitions of Article 2 of this Ordinance shall apply.

Airport shall mean an area of land or water designed and set aside that is used or intended to be used for the landing and taking off takeoff of aircraft and utilized or to be utilized in the interest of the public for such purposes; 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.

Airport hazard shall mean any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; that penetrates any approach, operation, transition, or turning zone.

Airport hazard area shall mean 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 three miles from the adjacent boundary of an airport; the limits provided for approach, operation, transition, and turning zones.

Airport layout plan shall mean 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.

Approach zone shall mean a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

Electric facility shall mean an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in section 70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing runway shall mean an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Instrument runway shall mean 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 the effective date of this act, 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.

Operation zone shall mean a zone that is longitudinally centered on each existing or proposed runway.

Proposed runway shall mean 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.

Runway shall mean a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length;

Structure shall mean, for the purposes of this section, any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Transition zone shall mean 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 one hundred fifty feet above the highest elevation on the existing or proposed runway.

Tree shall mean any object of natural growth.

Turning zone's outer limit shall mean 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 one hundred fifty feet above the highest elevation on the existing or proposed runway.

Visual runway shall mean 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.

5.21.03 Airport Zones

The following are intended for use with this specific overlay zoning district

1. Airport Hazard Area consists of Operation Zones, Approach Zones, Turning Zones, and Transition Zones.
2. Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines.
 - A. Instrument Runways
 - 1) Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 1,000 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline 10 miles from the operation zone where it is 16,840 feet wide.
 - 2) Height Limit: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 50 feet horizontally (50:1) up to a maximum of 150 feet above the nearest existing or proposed runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the 10-mile limit.
 - B. Visual Runways
 - 1) Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 500 feet wide at the end nearest the runway and expand 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.
 - 2) Height: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 40 feet horizontally (40:1) up to a maximum of 150 feet above the nearest existing or proposed runway end.
3. Operation Zones are longitudinally centered on each existing or proposed runway.
 - A. Length
 - 1) For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway.
 - 2) For existing and proposed turf runways, the operation zones begin and end at the runway ends.
 - 3) For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 hundred feet on either side of the runway centerline.
 - 4) For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline;
 - B. Height
 - 1) The height limit of the operation zones is the same as the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.
4. Transition Zones extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.
5. Turning Zones extend 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 zones is 150 feet above the nearest existing or proposed runway end.

5.21.04 Height Restrictions

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in subsection 4.17.03 above.

5.21.05 Airport Zoning Map and Location.

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Official Zoning Map, which is attached hereto and made a part hereof by reference. A copy of the Airport Zoning Regulations and Official Zoning Map shall at all times be on file in the office of the Zoning Administrator and City Clerk.

5.21.06 Permit Requirements, Exceptions, Application Forms, And Fees

1. Anyone wishing to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character; or to plant or replant any tree or other object of natural growth which, when mature, would not violate the requirements of this section, within the City of Burwell's jurisdiction for the Airport Hazard Overlay District must first obtain a permit from Zoning Administrator.
2. Exception:
Within the Turning Zones, no permit shall be required for any construction, reconstruction, repair, or planting of anything which, when completed, or, in the case of natural growth, when mature, does not exceed seventy-five 75 feet above the nearest existing or proposed runway end.
3. Application Form:
Application for a permit as required under these regulations shall be made on a form to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the end of the nearest runway or landing strip and height of the proposed structure or planting. (Mean Sea Level Elevation).
4. Permit Fee:
The fee for each Zoning Permit issued shall be as established by the City Council from time to time.

5.21.07 Non-Conforming Structures

1. Within the Airport Hazard Area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth; and no such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 50% or more of their original condition, or abandoned for a period of 12 months or more; shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow, as the case may be, to a height above the heights permitted by these regulations. Transmission lines and other communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.
2. Except as provided in subsection (3) following for certain electric facilities, all such airport zoning regulations adopted herein shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not

result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.

3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed,

5.21.08 Marking of Non-Conforming Structures

1. Whenever the Zoning Administrator determines that a specific structure or object in the Airport Hazard Area exceeds the height restrictions and existed prior to the promulgation of these regulations, the owner(s) and/or the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Zoning Administrator. The owner(s) and lessor(s) shall, within a reasonable time, permit the marking and lighting of the structure or object.
2. The Zoning Administrator shall specify the required marking and lighting, consistent with these regulations entitled "Marking and Lighting of Structures". The cost of marking or lighting shall not be assessed against the owner or lessor of said premises.

5.21.09 Marking of Non-Conforming Structures

The Zoning Administrator shall administer and enforce these regulations and shall be the administrative agency provided for in Neb. Rev. Stat. §3-319, and shall have all the powers and perform all the duties of the administrative agency as provided in the Airport Zoning Act.

5.21.10 Variance from this Section

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the Board of Adjustment for a variance from the zoning regulations in question.
 - A. Such variances shall be allowed only if the Board of Adjustment makes the same findings for the granting of variances generally as set forth in Article 12 herein, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the Board of Adjustment may grant the requested variance without such findings.

- B. Any variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this regulation.
- 2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or Board of Adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

5.21.11 Zoning Board of Adjustment

The City of Burwell Board of Adjustment, established as set forth in Article 12 of this Ordinance, shall serve as the board of adjustment with respect to these regulations. Said board shall have and exercise the powers conferred by Neb. Rev. Stat. §3-320 et. seq. and such other powers and duties as are conferred and imposed by law.

5.21.12 Permitted Principal Uses and Structures

Any use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 5.21.03 above.

5.12.13 Conditional Uses

Any conditional use permitted in the primary zoning district where this district is overlain where such conditional use has been duly authorized by the City in accordance with the requirements and procedures specified in this regulation, provided all buildings, structures and other obstacles comply with the height restrictions set forth in Section 5.21.03 above.

5.12.14 Accessory Structures

Any accessory use or structure permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 5.12.03 above.

5.12.15 Conflicting Regulations

In the event of any conflict between any airport zoning regulations adopted under this regulation and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern.

Section 5.22 WPO Wellhead Protection Overlay District

This section is intended to provide an overlay district for the protection of designated Wellhead Protection Areas, within the zoning jurisdiction of the City of Burwell, Nebraska.

Section 5.23 FHO Flood Hazard Overlay District

5.23.01

Intent:

This section is intended to provide an overlay district to incorporate the required and adopted Floodplain Management Ordinance, within the zoning jurisdiction of the City of Burwell, Nebraska. Requirements of this Section are based on Nebraska DNR's Suggested Provisions Meeting the Minimum Requirements of the Nebraska Minimum Standards for Floodplain Management Programs and Title 44 of the Code of Federal Regulations, Chapter 1, Part 60.3(b) for communities with a basic study showing Zone A with no base flood elevations on the FIRM.

1. Statutory Authorization

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in Nebraska Revised Statutes §§31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the floodprone area.

2. Findings of Fact

A. Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Burwell, Nebraska, are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. General Causes of the Flood Losses

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

3. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 5.23.02(2) above by applying the provisions of this ordinance to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
- C. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.

4. Adherence to Regulations

The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

5.23.02 General Provisions

1. Lands To Which Ordinance Applies
 - A. This Section shall apply to all lands within the jurisdiction of the City of Burwell identified on the Flood Insurance Rate Map (FIRM) Panels as Zone A and within the Flood Hazard Overlay District as established in this Ordinance.
 - Panel 31071C0225B dated 4/16/2008
 - Panel 31071C0250B dated 4/16/2008
 - B. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a Floodplain Development Permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the governing body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community.
2. Rules for Interpretation of District Boundaries

The boundaries of the floodway and the flood fringe areas shall be determined by scaling distances on the effective Flood Insurance Rate Map (FIRM). Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the Floodplain Administrator shall make the necessary interpretation.

 - A. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit their own technical evidence, if so desired.
3. Compliance

Within identified floodplains of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
4. Abrogation and Greater Restriction

This ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
5. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
6. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City of Burwell or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.
7. Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

5.23.03 Establishment of Overlay Zoning District

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the Flood Hazard Overlay District, as identified in the Flood Insurance Study (FIS) and on accompanying FIRM panels as established in Section 5.23.02(1) above. The floodplain overlay district shall correspond to flood zone A.

1. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

5.23.04 Floodplain Management Administration

1. Designation of Floodplain Administrator

The duly appointed Zoning Administrator of the City of Burwell is hereby designated as the community's local Floodplain Administrator, except as may be otherwise designated by the Mayor.

- A. If the local Floodplain Administrator position is unfilled, the City Administrator shall assume the duties and responsibilities herein.

2. Permits Required

A Floodplain Development Permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a Floodplain Development Permit.

3. Duties of the Floodplain Administrator

- A. Duties of the Floodplain Administrator shall include, but not be limited to, the following:

- 1) Review, approve, or deny all applications for Floodplain Development Permits.
- 2) Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
- 3) Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
- 4) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
- 5) Coordinate with the Nebraska Department of Natural Resources (DNR) to obtain base flood elevation information when applicable and required.
- 6) Notify adjacent communities and the Nebraska Department of Natural Resources (DNR) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- 7) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- 8) Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
- 9) Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
- 10) Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
- 11) Ensure comprehensive development plan as amended is consistent with this ordinance.

- 12) In the event the Floodplain Administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.
4. Application for Permit and Demonstration of Compliance
 - A. To obtain a Floodplain Development Permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
 - 1) Identify and describe the proposed development and estimated cost to be covered by the Floodplain Development Permit.
 - 2) Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and definitely locate the proposed building or development.
 - 3) Indicate the use or occupancy for which the proposed development is intended.
 - 4) Be accompanied by plans and specifications for proposed construction.
 - 5) Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
 - B. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
 - 1) All such proposals are consistent with the need to minimize flood damage;
 - 2) All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
 - 3) Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - 4) Construction materials are flood resistant;
 - 5) Appropriate practices to minimize flood damage have been utilized; and
 - 6) Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
 - C. For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.
 - D. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
 - E. Any other such information as reasonably may be required by the Floodplain Administrator shall be provided.
5. Flood Data Required
 - A. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study (FIS) data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.

- B. Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study (FIS) or on base flood elevation determinations.
- 6. Variance and Appeals Procedures
 - A. The Board of Adjustment, as established in Article 12 of this Ordinance, shall hear and decide appeals and requests for variances from the requirements of this Section.
 - B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement or determination made by the Floodplain Administrator in the enforcement or administration of this section, according to the procedures established in Article 12.
 - C. Any person aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the District Court as provided in *Nebraska Revised Statutes* §19-912.
 - D. In evaluating such appeals and requests, the Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - 1) The danger to life and property due to flooding or erosion damage;
 - 2) The danger that materials may be swept onto other lands to the injury of others;
 - 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
 - 4) The importance of the services provided by the proposed facility to the community;
 - 5) The necessity of the facility to have a waterfront location, where applicable;
 - 6) The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
 - 7) The compatibility of the proposed use with existing and anticipated development;
 - 8) The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
 - 9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
 - 11) The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.
- 7. Conditions for Variances to this Section
 - A. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - B. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
 - C. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items E-H below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
 - E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - F. Variances shall only be issued upon a determination that the variance in the minimum necessary, considering the flood hazard, to afford relief.
 - G. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
 - H. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the City of Burwell.
8. Enforcement
- A. Violations
Failure to obtain a Floodplain Development Permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided
 - B. Notices
When the Floodplain Administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
 - 1) Be in writing;
 - 2) Include an explanation of the alleged violation;
 - 3) Allow a reasonable time for the performance of any remedial act required;
 - 4) Be served upon the property owner or their agent as the case may require; and
 - 5) Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.
 - C. Penalties
 - 1) Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall be fined as provided in Section 13.05 of this Ordinance, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

- 2) The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
- 3) Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

5.23.05 Standards for Floodplain Development

1. General Provisions

A. Alteration or Relocation of a Watercourse

- 1) A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
- 2) No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources (DNR) have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency (FEMA).

B. Encroachments

- 1) When proposing to permit any of the following encroachments, the standards in this section shall apply:
 - a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
 - b. Alteration or relocation of a stream; then
- 2) The applicant shall:
 - a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
 - b. Supply the fully approved package to the Floodplain Administrator including any required notifications to potentially affected property owners.

2. Elevation and Floodproofing Requirements

A. Residential Structures

- 1) In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.

B. Nonresidential Structures

- 1) In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - a. The structure is watertight with walls substantially impermeable to the passage of water and
 - b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy
 - c. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the Floodplain Administrator.

C. Space Below Lowest Floor

- 1) Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
- 2) Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 - b. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

D. Manufactured Homes

- 1) Require that all manufactured homes to be placed or substantially improved within floodplains on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood:
 - a. Be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.
- 2) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas that are not subject to the provisions of subsection D(1) above be elevated so that either:
 - a. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.
- 3) New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of this Section.
- 4) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - b. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - c. Any additions to the manufactured home be similarly anchored.

- E. Existing Structures
 - 1) The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of this subsection shall apply.
 - 2) Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty percent (50%) of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.
 - 3) Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.
- 3. Design and Construction Standards
 - A. Anchoring
 - 1) All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - B. Building Materials and Utilities
 - 1) All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
 - 2) All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - C. Drainage
 - 1) Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
 - D. Water Supply and Sanitary Sewer Systems
 - 1) All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damage to such systems and the infiltration of floodwaters into the systems.
 - 2) All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
 - 3) On-site waste disposal systems (OWTS) shall be located and designed to avoid impairment to them or contamination from them during flooding.
 - E. Other Utilities
 - 1) All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.
 - F. Storage of Materials
 - 1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - 2) The storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

G. Recreational Vehicles (RVs)

- 1) Recreational vehicles to be placed on sites within the floodplain shall:
 - a. Be on site for fewer than 180 consecutive days; and
 - b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
 - c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

H. Subdivisions

- 1) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision (C-LOMR) and a Letter of Map Revision (LOMR).

5.23.06 Nonconforming Use

1. Unless more specifically specified below, Article 11 of this Ordinance shall apply to any use non-conforming as to the requirements of this regulation.
 - A. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
 - 1) If such use is **discontinued for 12 consecutive months**, any future use of the building premises shall conform to this ordinance. The City Utility Department shall notify the Floodplain Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
 - 2) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
 - B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

5.23.07 Amendments

1. Unless more specifically specified below, Article 14 of this Ordinance shall apply to the amendment of this section.
 - A. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be taken until after a public hearing in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard.
 - 1) Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Burwell. At least ten days shall elapse between the date of this publication and the public hearing.
 - B. A copy of such amendments will be provided to the Nebraska Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA) for review and approval before being adopted.

5.23.08 Definitions

Unless more specifically defined below, all definitions of Article 2 of this Ordinance shall apply.

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

Base Flood shall mean the flood having one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation shall mean the elevation to which floodwaters are expected to rise during the base flood.

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

Building shall mean "structure." See definition for "structure."

Development shall mean any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.

Drainway shall mean "watercourse." See definition for "watercourse."

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

Expansion to an Existing Manufactured Home Park or Subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding shall mean a general and temporary condition of partial or complete inundation of normally dry land areas.

Flood Fringe shall mean that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

Flood Insurance Rate Map (FIRM) shall mean an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) shall mean the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

Floodplain shall mean any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.

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

Flood-resistant material shall mean any building product capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Prolonged contact is defined as at least 72 hours.

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

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

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

Historic Structure shall mean any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

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

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

Manufactured Home Park or Subdivision for the purposes of this section shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

Obstruction means any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources (DNR) pursuant to the Safety of Dams and Reservoirs Act (Nebraska Revised Statutes 46-1601 to 46-1670 as amended).

Overlay District, for the purpose of this section, shall mean a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

Post-FIRM Structure shall mean a building that was constructed or substantially improved after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map dated 04/02/01, whichever is later.

Pre-FIRM Structure shall mean a building that was constructed or substantially improved on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map dated 04/02/01, whichever is later.

Principally Above Ground shall mean that at least 51 percent of the actual cash value of the structure is above ground.

Recreational Vehicle (RV), for purposes of this section, shall mean a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Elevation shall mean the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.

Special Flood Hazard Area (SFHA) shall mean the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

Start of Construction, for purposes of this section, shall mean the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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

Subdivision, for purposes of this section, shall mean means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.

Substantial Damage, for purposes of this section, shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred

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

Variance, for purpose of this section, shall mean a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation shall mean a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse shall mean any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well-defined banks.

Article 6: Conditional Use Permits

Section 6.01 General Provisions

- 6.01.01 A Conditional Use is a use which is generally appropriate in a particular zoning district, yet which may require mitigation of impacts on adjacent property and the health and welfare of the city at large through a conditional approval process.
- 6.01.02 Pursuant to Neb. Rev. Stat. §19-929, the City Council has chosen to retain for itself the power to grant Conditional Use Permits (CUP), upon review by the Planning Commission. The City Council may authorize and permit a conditional use as designated in Land Use Matrix after the following:
1. Planning Commission Public Hearing,
 2. Referral by the Planning Commission; and
 3. City Council Public Hearing
- 6.01.03 Approval or denial 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 new CUP in accordance with the rules and procedures of this ordinance in effect at time of application. The City Council may grant or deny a CUP in accordance with the intent and purpose of this ordinance. In granting a CUP, the City Council may:
1. Authorize the use and
 2. Shall prescribe and impose appropriate conditions, safeguards, or a specified time limit for the implementation of the identified conditional use permit.

Section 6.02 Application for Conditional Use Permit

- 6.02.01 A request for a CUP or modification of a CUP 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.
1. 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.
 2. The application shall be accompanied with a non-refundable fee as established by the City Council.

Section 6.03 Public Hearings

- 6.03.01 Before issuance of any CUP, both the Planning Commission and City Council shall hold Public Hearings. The City Council will consider the application for the CUP together with the recommendations of the Planning Commission.
1. Proper and legal notice of the time, place, and purpose of each hearing shall be given by publication in a legal paper of general circulation in the city, one time at least 10 days prior to such hearing, and a copy mailed to each party in interest.
 2. Written notice of such application shall be mailed to all owners of lands located within 300 feet of the applicable parcel.

Section 6.04 Decisions

- 6.04.01 A majority vote of the City Council shall be necessary to grant a CUP.
1. The applicant shall have 12 months from the approval of the CUP to commence the use unless the City Council specifically grants a longer period of time upon the recommendation of the City Planning Commission. If the use stated within the CUP has not commenced within 12 months, or approved time period, said Permit shall become invalid and Applicant shall be required to apply for a new Permit.
 2. All recommendations of the Planning Commission and decisions by the City Council shall be accompanied by findings of fact for the decision, for either approval or denial.

Section 6.05 Review Criteria

- 6.06.01 No CUP shall be granted unless the Planning Commission and City Council has found the proposal meets the following standards:
1. 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.
 2. The conditional use has adequate buffers so as not to impair the use and enjoyment of other property in the immediate vicinity, nor substantially diminish and impair property values within the neighborhood.
 3. The establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
 4. Adequate utilities, drainage, and/or necessary facilities have been or are being provided.
 5. Adequate measures have been or will be taken to provide access, ingress and egress, to minimize traffic congestion in the public streets.
 6. The proposed design of the site adequately accommodates the proposed use, including but not limited to building design, accessibility, parking, loading, landscaping, lighting, and other necessary features.
 7. The proposed use will not result in undue visual impacts; inappropriate levels of noise, dust, odor; undue potential for air, surface water or groundwater contamination; or explosion hazards.
 8. The proposed use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
 9. Adequate measures have been made to avoid development within any wetlands and areas subject to flooding.
 10. The proposed use is in conformance with the adopted Comprehensive Plan.

Section 6.06 Transferability

- 6.06.01 A CUP runs with the property. Any approved CUP is automatically transferable upon sale of the property from the original applicant to the successive property owner. However, the new owner shall assume the responsibility for compliance with:
1. The conditions of the granted permit,
 2. The use shall not change or be expanded unless a new CUP is approved,
 3. 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

- 6.07.01 Any approved CUP 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).
1. 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.
 2. Failure to follow a Cease and Desist order shall cause action to be filed by 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 become invalid within 30 days.

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Article 7: Parking Requirements

Section 7.01 Purpose

New developments, including changes in use, shall provide parking in proportion to the need created by each unique use. These regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

Section 7.02 Off-Street Automobile Parking

- 7.02.01 Off-street automobile parking spaces shall be provided for each use, at minimum sufficient for employees and operations, as shown in Section 7.03 following.
1. The Zoning Administrator shall determine the type of use, or the most similar use, for determination of required parking and loading, or make a recommendation to the Planning Commission for determination of a conditional use.
 2. Off-street automobile parking area shall be provided with vehicular access to a street or an alley.
 3. For the purpose of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used. Where calculations in accordance with the following list result 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.
 4. All parking spaces shall be hard surfaced with gravel or paved with brick, pavers, asphalt, or concrete.
- 7.02.02 In the TA-1, RE, and R-1 Districts, required off-street parking for residential uses shall be provided on the lot on which the use is located.
1. In all other Districts, if the vehicle parking spaces required in Section 7.03 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning Commission and City Council, such space may be provided on another off-street property (provided such space lies within 400 feet of an entrance to such principal use) through a Conditional Use Permit for both properties. Such vehicle parking spaces shall not thereafter be reduced or encroached upon in any manner. 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.
- 7.02.04 Some uses may require two different use types to be calculated together in order to determine the total parking requirement, i.e. combined schools may require one calculation for primary classrooms and another for secondary classrooms.
- 7.02.05 Parking requirements herein do not apply to the DC Downtown Commercial District.
- 7.02.06 All off-street parking, whether required or not, shall meet the ADA requirements in Section 7.05 of this Ordinance.

Section 7.03 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses	Parking Requirements	Loading Requirements
Commercial & Related Uses including but not limited to:		
Agricultural and Horticulture Uses	Sufficient for employees and operations	None required
Agricultural Sales & Service	1 space/500 s.f. of retail gross floor area	1 space/establishment
Animal Care	1 space/500 s.f. of gross floor area	1 space/establishment
Business and Household Services	1 space/500 s.f. of gross floor area	None required
Financial Services	1 space/500 s.f. of gross floor area	None required
Food and Beverage Services	1 space/200 s.f. of gross floor area - waived if no indoor seating area	1 space/establishment
Food Service (Restaurants) w/drive-thru	Greater of the two: -1 space/40 s.f. of dining area, or -1 space/150 s.f. of gross floor area	1 space/establishment
Commercial, General	1 space/250 s.f. of gross floor area	As necessary for operations
Commercial Lodging (motels, etc)	1 space/rental unit + 1 space/each 200 s.f. of public meeting area	1 space/establishment
Commercial, Special	Sufficient for employees and operations	As necessary
Hospitals and clinics	1 space/2 licensed beds	2 spaces/structure
Medical offices, sales, and services	1 space/300 s.f. of gross floor area + 1 space/2 employees	None required
Offices	1 space/300 s.f. of gross floor area + 1 space/2 employees	None required
Recreational Commercial	Sufficient for employees and operations	None required
Vehicle Sales	1 space/500 s.f. of retail gross floor area	1 space/establishment
Vehicle Services	4 spaces/repair stall – Parking not to be used for storage	None required
Industrial & Related Uses including but not limited to:		
Adult entertainment establishments	1 space/2 persons of licensed capacity	None required
Contractors	Sufficient for employees and operations	As necessary
Contractors, Large	Sufficient for employees and operations	1 space/establishment
Food Processing	1 space/ employee on the largest shift	1 space/establishment
Manufacturing	1 space/ employee on the largest shift	1 space/establishment
Mining & Excavation	Sufficient for employees and operations	As necessary
Private Utilities	Sufficient for employees and operations	As necessary
Warehouse, self-storage	2 spaces + parking shall not impede on-site access	None required
Wholesaling / Distribution Operations	1 space/ employee on the largest shift	2 spaces/establishment
Waste Handling	Sufficient for employees and operations	As necessary
Community & Related Uses including but not limited to:		
Churches, synagogues, temples & similar	1 space/4 seats in main worship area	None required
Community Services/Civic Uses—Other	Sufficient for employees and operations	None required
Community Treatment Facilities	Sufficient for employees and operations	1 space/establishment
Community Child-Care / Schools	1 space/employee	1 space/establishment
-High school, tech school, college	+ 1 space/2 students	
Parks	No minimum required	None required
Residential Uses including but not limited to:		
Assisted-living facilities	1 space/2 dwelling units	1 space/structure
Convalescent & Nursing Home Services	1 space/4 beds + 1/employee on the largest shift	1 space/structure
Group Care Facility	1 space/4 persons of licensed capacity	None required
Group Home	1 space/4 persons of licensed capacity	None required
Multi-family Dwellings / Apartments	1 space/sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Manufactured Home Park	2 spaces/dwelling unit	None required
Residential (Single-family, attached and detached)	2 spaces/dwelling unit (1 may be garage or carport)	None required
Residential (Two-family/duplex)	2 spaces/dwelling unit (1 may be garage or carport))	None required

Section 7.04 Off-Street Parking: Shared Parking Option

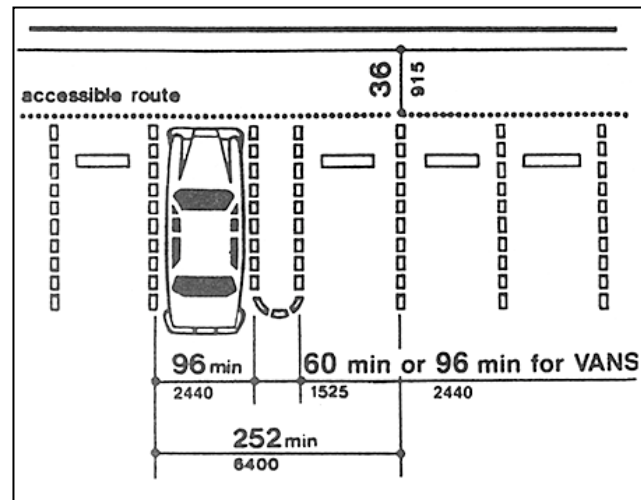
- 7.04.01 Notwithstanding the provisions of Section 7.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may be waived in part by the Planning Commission and City Council, through a Conditional Use Permit (CUP).

Section 7.05 Off-Street Parking: Parking for Individuals with Disabilities

- 7.05.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for employees or visitors then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.
- Off-street parking for disabled persons shall also be subject to the requirement of Section 3-320 *et seq.* of the City of Burwell Municipal Code.

Table 7.05

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000



Source: <http://www.ada.gov/adastd94.pdf>

- 7.05.02 Access aisles adjacent to accessible spaces shall be 60 inches wide at a minimum.
- One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 7.05.04 below. The vertical clearance at such spaces shall comply with Section 7.05.05 below. All such spaces may be grouped on one level of a parking structure.
 - Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
 - Parked vehicle overhangs shall not reduce the clear width of an accessible route.
 - Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
 - If passenger-loading zones are provided, then at least one passenger loading zone shall comply with Section 7.05.06 below.

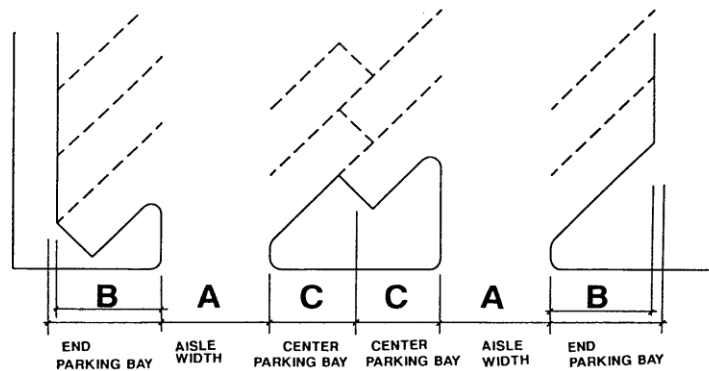
6. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with Section 7.05 of this regulation shall be provided in accordance with Section 7.05.01; except as follows:
 - A. Outpatient units and facilities: 10% of the total number of parking spaces provided serving each such outpatient unit or facility;
 - B. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20% of the total number of parking spaces provided serving each such unit or facility.

- 7.05.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
 1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
 2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
- 7.05.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 7.05.02(1) shall have an additional sign stating the stall is **"Van Accessible"** mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
- 7.05.05 Minimum vertical clearance of 114 inches at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with Section 7.05.02(1), provide minimum vertical clearance of 98 inches at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- 7.05.06 Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 240 inches long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent in all directions.

Section 7.06 Off-Street Parking Design Criteria

- 7.06.01 Standard parking stall dimensions shall not be less than 10 feet by 18 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 Depth (B)			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
Center Parking Bay Depth (C)			
	18 feet	18 feet	16 feet



- 7.06.02 Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
- 7.06.03 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 City Engineer.
- 7.06.04 Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
- 7.06.05 Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.
- 7.06.06 All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.
1. Parking lots should be landscaped with trees and shrubs in landscape islands and along perimeters, to provide shade and buffer visual impacts, to the extent possible.

- 7.06.07 Lighting:
1. Lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any district.
 2. Lighting standards shall not exceed 22 feet in height and shall be equipped with top and side shields when necessary to prevent glare onto adjacent properties.
 3. The average-maintained lighting levels for multi-family units shall not exceed 10 foot-candles at buildings/parking lots/other areas within a residential district. The maximum to average ratio shall not exceed 2.5 to 1.

Section 7.07 Recreational Vehicle Parking in Residential districts

- 7.07.01 No Recreational Vehicles (RVs) as herein defined shall be parked or stored on any lot in a Residential District except as provided in **Section 4-604 of the Municipal Code**.
1. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use, without a Temporary Use Permit.
- 7.07.02. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in a residential district, other than in completely enclosed buildings.
- 7.07.03 There shall be no outdoor storage, keeping, or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except where authorized by these regulations.

Article 8: Sign Regulations

Section 8.01 Compliance with Sign Regulations

8.01.01 All signs constructed, erected, modified, or moved after the effective date of this Ordinance shall comply with the regulations herein, unless expressly exempted.

1. All signs shall require a zoning permit (sign permit) prior to construction unless expressly exempted.

Section 8.02 Sign Definitions

The following are the definitions relating to signs within the City's zoning jurisdiction.

ADVERTISING SIGN shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

ANIMATED SIGN shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

ANNOUNCEMENT SIGN shall mean a freestanding sign structure whose announcement is limited to an activity, event, or service offered only by a non-profit organization which conducts its activities, events, or services within the county.

AREA of SIGN shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

AWNING OR CANOPY SIGN shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

BANNER SIGN shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.

BILLBOARD SIGN shall mean a sign structure used for the display of posters, printed or painted advertising matter which directs attention to commercial goods or services.

BUILDING SIGN shall mean any sign supported by, painted on or otherwise attached to any building or structure.

BUILDING MARKER SIGN shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

CANOPY SIGN shall mean an enclosed, illuminated or non-illuminated, structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

CHANGEABLE COPY SIGN shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

COMMERCIAL MESSAGE SIGN shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMUNITY OR CIVIC SIGN shall mean a sign containing business logos and/or logos of civic organizations. The sign is intended to provide space for several businesses and/or organizations on one sign, and all advertising is similar in size. The primary intent of the community or civic sign is for informational purposes and to communicate information to the public as to businesses and organizations that are active in the community. Community or civic signs are owned and operated by the local chamber of commerce or other civic organization or non-profit entity.

DESTINATION SIGN shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.

DOUBLE-FACED SIGN shall mean a single sign structure where two sides are separated by not more than 24 inches generally parallel to each other—a freestanding sign can have a single face or be double-faced for example; only one face shall be used to calculate sign area.

ELECTRONIC MESSAGE BOARD SIGN shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

FLASHING SIGN shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.

FREESTANDING SIGN shall mean any sign (such as a pylon sign) supported by multiple uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

ILLUMINATED SIGN shall mean a sign illuminated in any manner by an artificial light source.

INCIDENTAL SIGN shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

MARQUEE SIGN shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MONUMENT SIGN shall mean a sign mounted directly to the ground without poles.

MULTI-FACED SIGN shall mean a single sign structure with multiple faces, exceeding the definition of a Double-faced sign; each face shall be used to calculate sign area.

NAMEPLATE SIGN shall mean a sign not exceeding 2 square feet for each dwelling.

NON-CONFORMING SIGN shall mean any sign that does not conform to the requirements of this ordinance.

OBSOLETE SIGN shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of **six months** after the termination of the existence of such business or the termination of sale of the product advertised.

OFF-PREMISES SIGN shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

ON-PREMISE SIGN shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

OPEN SIGN shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

PENNANT SIGN shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

POLE SIGN shall mean a sign that is mounted on one freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

PORTABLE SIGN shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

PROJECTING SIGN shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

ROOF SIGN shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.

ROOF-INTEGRAL SIGN shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches; includes parapet signs.

SANDWICH BOARD SIGN shall mean a type of temporary sign which may have a message on one or two connected sides.

SIGN SETBACK shall mean the horizontal distance from the property line to the nearest projection of an existing or proposed sign.

SUBDIVISION SIGN shall mean a sign erected on a subdivision lot which identifies the platted subdivision where the sign is located.

SIGN SURFACE shall mean the entire area of a sign.

SUSPENDED SIGN shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.





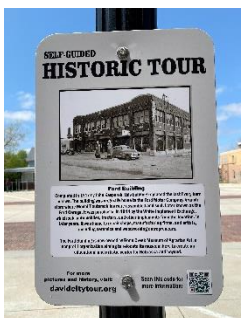


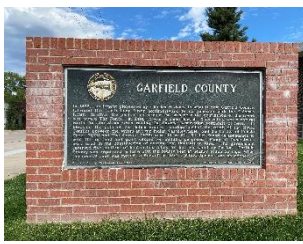




TEMPORARY SIGN shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.














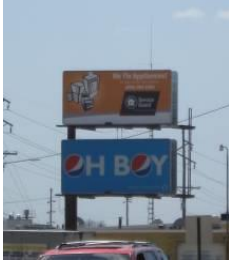






VEHICLE SIGN shall mean a sign mounted, painted, or otherwise placed on a vehicle or equipment, such as a truck or trailer, which is not moved regularly, nor situated at a location with proper zoning permit for the sale or rent of machinery, equipment or vehicles.

WALL SIGN shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Sign Examples

 <p>Animated Sign</p>	 <p>Awning Sign</p>	 <p>Banner/Flag Sign</p>	 <p>Banner Sign (Commercial)</p>
 <p>Building Marker Sign</p>	 <p>Canopy Sign</p>	 <p>Changeable Copy Sign</p>	 <p>Commemorative Sign</p>
 <p>Construction Sign</p>	 <p>Electronic Message Sign</p>	 <p>Gas Station Price (Monument) Sign</p>	 <p>Marquee Sign</p>

 <p>Monument Sign</p>	 <p>Multi-faced Sign</p>	 <p>Off-Premises Signs</p>	 <p>Painted Wall Sign</p>
 <p>Parapet Wall Sign</p>	 <p>Pennant Sign</p>	 <p>Pole Sign</p>	 <p>Political Sign</p>
 <p>Projecting Sign</p>	 <p>Public/Traffic Information Sign</p>	 <p>Roof Sign</p>	 <p>Roof-Integral Sign</p>
 <p>Sandwich Board Sign</p>	 <p>Sign Stacking</p>	 <p>Subdivision Sign</p>	 <p>Suspended Sign</p>
 <p>Temporary Sign</p>	 <p>Wall Sign</p>	 <p>Warning Sign</p>	 <p>Window Sign</p>

Section 8.03 Sign Area Computation

8.03.01 Computation of Area of Individual Signs

The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly identical to the display itself.

8.03.02 Computation of Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

Section 8.04 Sign Schedules

8.04.01 Signs shall be permitted in each district according to the following schedule:

	TA-1	RE	R-1	RM	DC	GC	FLEX	I-1
Animated	-	-	-	-	-	C	C	C
Announcement	+	+	+	+	+	+	+	+
Banner	+	-	-	-	+	+	+	+
Canopy	+	-	-	-	+	+	+	+
Changeable Copy	+	-	-	-	+	+	+	+
Destination	+	+	+	+	+	+	+	+
Electronic Message Board	-	-	-	-	C	+	+	+
Flashing	-	-	-	-	-	-	-	-
Freestanding (Other than Pole Sign)	C	-	-	-	+	+	+	+
Illuminated	C	-	-	-	C	+	+	+
Incidental	+	+	+	+	+	+	+	+
Marquee	-	-	-	-	C	+	+	+
Monument	C	C	-	C	C	+	+	+
Nameplate	+	+	+	+	+	+	+	+
Off-Premises (Billboard)	-	-	-	-	-	C	C	C
Pennant	+	-	-	-	-	+	+	+
Pole	-	-	-	-	C	C	C	+
Projecting	+	-	-	-	+	+	+	+
Portable	T	T	T	T	T	T	T	T
Roof	-	-	-	-	-	-	-	-
Roof-Integral	+	-	-	-	C	C	C	C
Subdivision	C	C	C	C	C	C	C	C
Suspended	+	-	-	-	+	+	+	+
Temporary	T	T	T	T	T	T	T	T
Wall	+	-	-	-	+	+	+	+
Window	+	-	-	-	+	+	+	+

+: permitted -: not permitted C: Conditional Use T: Temporary

8.04.02 Signs shall be permitted in each zoning district at the listed square footage and heights according to the following schedule:

	TA	RE	R-1	RM	DC	GC	FLEX	I-1
Animated								
Max. Square Ft.	-	-	-	-	-	200	200	200
Max. Height Ft.	-	-	-	-	-	45	45	45
Max. Number	-	-	-	-	-	1	1	1
Announcement								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1
Banner								
Max. Square Ft.	32	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	NA	NA	NA	NA
Canopy								
Max. Square Ft.	250 ⁷	-	-	-	250 ⁷	250 ⁷	250 ⁷	250 ⁷
Max. Height Ft.	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-
Changeable Copy								
Max. Square Ft.	32	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	NA	NA	NA	NA
Destination								
Max. Square Ft.	16	16	16	16	16	16	16	16
Max. Height Ft.	8	8	8	8	8	8	8	8
Max. Number	1	1	1	1	1	1	1	1
Electronic Message Board								
Max. Square Ft.	-	-	-	-	100	100	100	100
Max. Height Ft.	-	-	-	-	20	20	20	20
Max. Number	-	-	-	-	1	1	1	1
Flashing								
Max. Square Ft.	-	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-
Freestanding (other than Pole Sign)								
Max. Square Ft.	32	-	-	-	40	40 ⁴	80 ⁵	160 ⁶
Max. Height Ft.	10	-	-	-	15	20	30	40
Max. Number	1	-	-	-	1	1	1	1
Illuminated*								
Max. Square Ft.	NA	NA	NA	NA	NA	NA	NA	NA
Max. Height Ft.								
Max. Number								
Incidental								
Max. Square Ft.	25 each	10 each	10 each	15 each	25 each	25 each	25 each	25 each
Max. Height Ft.	10	6	6	10	10	10	10	10
Max. Number	NA	NA	NA	NA	NA	NA	NA	NA
Marquee								
Max. Square Ft.	-	-	-	-	250	250	250	250
Max. Height Ft.	-	-	-	-	45	45	45	45
Max. Number	-	-	-	-	1	1	1	1
Monument								
Max. Square Ft.	50	32	-	32	40 ¹	40 ¹	80 ²	160 ³
Max. Height Ft.	10	6	-	6	8	10	12	14
Max. Number	1	1	-	1	1	1	1	1
Nameplate								
Max. Square Ft.	2	2	2	2	2	2	2	2
Max. Height Ft.	-	-	-	-	-	-	-	-
Max. Number	1	1	1	1	1	1	1	1
Off-Premises (Billboard)**								
Max. Square Ft.	300	-	-	-	-	300	300	300
Max. Height Ft.	20	-	-	-	-	20	20	20
Max. Number	1	-	-	-	-	1	1	1
Pennant								
Max. Square Ft.	32	-	-	-	32	32	32	32
Max. Height Ft.	8	-	-	-	8	8	8	8
Max. Number	NA	-	-	-	NA	NA	NA	NA
Pole								
Max. Square Ft.	-	-	-	-	30	40	60	120
Max. Height Ft.	-	-	-	-	15	20	25	30
Max. Number	-	-	-	-	-	1	1	1
Projecting								
Max. Square Ft.	16	-	-	-	16	16	16	16
Max. Height Ft.	20	-	-	-	40	40	40	40
Max. Number	1	-	-	-	1	1	1	1
Portable								
Max. Square Ft.	32	32	32	32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1

	TA	RE	R-1	RM	DC	GC	FLEX	I-1
Roof								
Max. Square Ft.	-	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-
Roof-Integral								
Max. Square Ft.	16	-	-	-	125	125	200	250
Max. Height Ft.	45	-	-	-	45	45	45	45
Max. Number	1	-	-	-	1	1	1	1
Subdivision								
Max. Square Ft.	300	300	300	300	300	300	300	300
Max. Height Ft.	35	35	35	35	35	35	35	35
Max. Number	1	1	1	1	1	1	1	1
Max. Lot area s.f.	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Suspended***								
Max. Square Ft.	20	-	-	-	-	20	20	20
Max. Height Ft.	10	-	-	-	-	10	10	10
Max. Number	1	-	-	-	-	1	1	1
Temporary****								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height Ft.	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-
Wall								
Max. Square Ft.	200 ⁷	-	-	-	200 ⁷	200 ⁷	200 ⁷	200 ⁷
Max. Height Ft.	15	-	-	-	45	45	45	45
Max. Number	1	-	-	-	1	1	1	1
Window								
Max. Square Ft.	200 ⁷	-	-	-	200 ⁷	200 ⁷	200 ⁷	200 ⁷
Max. Height Ft.	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-

* See Section 8.06 below.

** See Section 8.05.01 below.

*** See Section 8.05.04 below.

**** See Section 8.05.05 below.

1. Monument signs may be increased from 40 square feet in area to 80 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
2. Monument signs may be increased from 80 square feet in area to 160 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
3. Monument signs may be increased from 160 square feet in area to 320 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual signs for every use/storefront.
4. Freestanding signs may be increased from 40 square feet in area to 80 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
5. Freestanding signs may be increased from 80 square feet in area to 160 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
6. Freestanding signs may be increased from 160 square feet in area to 320 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
7. Wall/Window signs shall not exceed 10% of the total wall area, or the area indicated whichever is greater.

NA = Not Applicable – Refer to specific structural sign types

- 8.04.03 A building or use having frontage on a second street may install a sign on the second street side no greater in size than 20% of the total allowed on one facade.

Section 8.05 Signs, Special Conditions

- 8.05.01 Billboard (Off-Premises) Signs.
Billboards, signboards, and other similar Off-Premises outdoor advertising signs shall be subject to the same height and location requirements as other Principal structures in the district and shall also be subject to the following conditions and restrictions.
1. No billboard, signboard, or similar advertising sign shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety. Off-premises signs in the City's jurisdictional area shall be no closer than 300 feet from a street intersection at grade. *See also Section 4.04.*
 2. No billboard, signboard, or similar advertising signs shall be located within 300 feet of any lot in a residential district, or to any residence, park, school, cemetery, or public building.
 3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- 8.05.02 Stand-alone ATMs may have the following:
1. One wall sign on each exterior wall provided each wall sign does not exceed 10% of the applicable exterior wall and the total shall not exceed 40 square feet in size.
 2. Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
 3. Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
 4. All signs are subject to the required permitting process of these Regulations.
 5. Said signage may be incorporated with a lighting plan and backlit in order to provide for greater security on the premises.
- 8.05.03 Coffee Kiosks and other Kiosks may have the following:
1. One wall sign on each exterior wall not used for drive-up service, provided each wall sign does not exceed 10% of the applicable exterior wall and the total shall not exceed 40 square feet in size.
 2. Where a canopy is integrated into the Coffee Kiosks/Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk/Kiosks, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
 3. Directional signage shall be contained on the Coffee Kiosk/Kiosk, painted within a drive lane or in any curbing defining a drive lane
 4. Window signs limited to menu boards and daily specials shall not require a sign permit.
 5. All signs are subject to the required permitting process of these Regulations, unless otherwise noted.
- 8.05.04 Hanging Signs
Any suspended sign hung from a canopy or awning shall maintain 80 inches of clear space, as measured from the bottom edge of the sign to the grade below.

8.05.05 Temporary Signs

Temporary signs may be placed without a permit, within the following criteria:

1. No temporary sign shall be of such size, message, or character so as to harm the public health, safety, or general welfare.
2. Temporary signs may be for a continual period; however, in no event shall a Temporary sign be up for more than seven days prior to an event and shall be removed within five days after the event, except those exempt by Section 8.05.08 below.
3. Temporary signs may be allowed in a manner where they are put in place during certain periods of time (set up in the morning and taken down in the evening) without a specific end date to the permit and these signs may advertise an off-premises business and/or organization.
4. Temporary signs shall not be placed within a public right-of-way, unless authorized by the jurisdictional authority.

8.05.06 Emergency Signs

Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

8.05.07 Other Signs Forfeited

Any sign installed or placed on public property including rights-of-way, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

8.05.08 Signs Exempt from Regulation Under this Ordinance

The following signs shall be exempt from regulation under this ordinance, except no sign shall create an obstruction to vision, as per Section 4.04 of this Ordinance and/or a collision hazard to the public:

- Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance.
- Any religious symbol
- Construction signs when equal to six square feet or less
- Any sign identifying a public facility or public/civic event
- Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located.
- Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the *Manual on Uniform Traffic Control Devices* (UMTCD) requirements and which contain no commercial message of any sort.
- Holiday lights and decorations with no commercial message
- Scoreboards in athletic stadiums
- A temporary political sign exhibited in conjunction with the election of political candidates. Only **four** political signs shall be allowed per legal lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not be placed within the R.O.W.

8.05.09 Signs Prohibited Under These Regulations

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the City's jurisdiction. Such signs include, but are not limited to:

1. Audible signs
2. Beacons
3. Roof signs
4. Obsolete signs and signs that are not in substantial good repair.
5. Signs that are not securely affixed to a substantial structure.
6. Signs which attempt to direct the movement of traffic or which obscure or interfere with the effectiveness of or imitate or resemble any official traffic signal or sign.
7. Signs which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaches to intersections or block any access way.
8. Signs erected or maintained upon trees or utility poles, or on natural formations or features.
9. Signs which move or have any animated or moving parts, including video signs.
10. Vehicle signs, which are painted, printed, or mounted on parked automobiles, trucks, trailers, or other movable structures, as defined in this section.

Section 8.06 Sign Lighting**8.06.01 Signs may be illuminated subject to the following standards.**

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, or weather, provided such public service information signs shall not contain or incorporate beacons, strobe lights, or other bright flashing lights.
2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the federal aid highway system or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operations of a motor vehicle are prohibited.
3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
4. Illuminated signs shall be designed as to reflect or direct light away from any residence; and any illuminated sign located on a lot adjacent to, in front of, or across the street from any residential district shall not be illuminated between the hours of 11 p.m. and 7 a.m.
5. Signs constructed of metal and illuminated by any means requiring wiring shall maintain a free clearance to grade of nine (9) feet. Accessory lighting fixtures attached to a non-metal frame shall also maintain a clearance of nine (9) feet to grade.
 - A. No metal sign shall be located within eight (8) feet vertically and four (4) feet horizontally of electric wires or conductors in free air carrying more than forty-eight (48) volts.

8.06.02 All such lighting shall be subject to any other provisions relating to lighting of signs applicable to highways under the jurisdiction of state and local governmental agencies.

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Article 9: Supplemental Regulations

Section 9.01 Home Occupations and Home-Based Businesses in Residential Districts

- 9.01.01 Intent:
A home occupation or home-based business shall be permitted when said occupation or business is conducted on residentially used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.
- 9.01.02 Permitted Home Occupations:
1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
 2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
 3. Child Nurseries or Child Care.
 4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
 5. Instructional services and artist studios, including music, dance, art and craft classes and tutoring.
 6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
 7. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
 8. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
- 9.01.03 Prohibited Home Occupations:
1. Medical and dental clinics, hospitals.
 2. Restaurants, clubs, drinking establishments.
 3. Motor vehicle / small engine repair.
 4. Adult Entertainment Uses
- 9.01.04 Performance Standards for Home Occupations:
1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
 2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
 3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
 4. No more than 25% of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
 5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
 6. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.

7. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
8. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
9. No retail sales are permitted from the site other than incidental sales related to services provided.
10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
11. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
12. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.
13. No permit for a Home Occupation or Home-based Business shall supersede any State or Federal requirements for permits and licenses.

9.01.05 Permitted Home-Based Businesses:

1. Workrooms for custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Personal services, including Barber and Beauty Shops (limited to two chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
4. Instructional services and artist studios, including music, dance, art and craft classes and tutoring.
5. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
6. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
7. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
8. Child Nurseries or Child Care

9.01.06 Prohibited Home-Based Businesses:

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / small engine repair.
4. Adult Entertainment Uses

9.01.07 Performance Standards for Home Based Businesses:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as an additional two unrelated individuals for purposes of conducting business.

3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25% of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of The City.
4. No more than 25% of the floor area of any one story of the dwelling unit shall be devoted to such home based business.
5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located with an existing Accessory Building.
6. Home based businesses conducted within an Accessory Building shall be confined to the structure of the said Accessory Building. In addition, the applicant must prove that the Accessory Building meets all Life Safety Codes including electrical compliance for a commercial business.
7. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
8. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
 - A. Two additional spaces for the unrelated employees.
 - B. Two additional spaces to be used for client/visitor parking.
 - C. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback.
 - D. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
 - E. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
 - F. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
9. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
10. No retail sales are permitted from the site other than incidental sales related to services provided.
11. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
12. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
13. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

9.01.08 Revocation:

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - A. That any condition of the home occupation or home-based business permit has been violated.
 - B. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
 - C. That the permit was obtained by misrepresentation or fraud.
 - D. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and

- E. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation shall report his or her findings of fact and decision to the Board of Adjustment. The Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.
3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 9.02 Home Occupations and Home-Based Businesses within the TA-1 District

- 9.02.01 Intent: A home occupation or home-based business shall be permitted when said occupation or business is conducted on agriculturally used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.
- 9.02.02 Permitted Home Occupations:
 1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
 2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
 3. Child Nurseries or Child Care.
 4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
 5. Instructional services and artist studios, including music, dance, art and craft classes and tutoring.
 6. Repair services, including watch and clock, small appliances, computers, electronic devices, and lawnmowers including engines.
 7. Offices and shops in association to one another, such as construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
 8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
 9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
 10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

- 9.02.03 Prohibited Home Occupations:
1. Medical clinics and hospitals.
 2. Restaurants, clubs, drinking establishments.
 3. Undertaking and funeral parlors.
 4. Adult Entertainment Uses
- 9.02.04 Performance Standards for Home Occupations:
1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
 2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
 3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
 4. No more than 25% of the floor area of any one story of the dwelling unit shall be devoted to such home occupation when contained within the principal structure.
 5. Home occupations may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
 6. When a home occupation is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
 7. Home occupations focused on repairs and maintenance of vehicles and motors shall not be allowed to store damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home occupations are taking place.
 8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
 9. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.
 10. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
 11. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
 12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
 13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
 14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.
 15. No permit for a Home Occupation or Home-based Business shall supersede any State or Federal requirements for permits and licenses.
- 9.02.05 Permitted Home-Based Businesses:
1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.

2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services and artist studios, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

9.02.06 Prohibited Home-Based Businesses:

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

9.02.07 Performance Standards for Home-Based Businesses:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25% of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of The City.
4. No more than 25% of the floor area of any one story of the dwelling unit shall be devoted to such home based business when contained within the principal structure.
5. Home based businesses may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
6. When a home-based business is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.

7. Home based businesses focused on repairs and maintenance of vehicles and motors shall not be allowed to store damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home based business is taking place.
8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
9. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
10. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
 - A. Two additional spaces for the unrelated employees.
 - B. Two additional spaces to be used for client/visitor parking.
 - C. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback.
 - D. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
 - E. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
 - F. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
11. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

9.02.08 Revocation:

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - A. That any condition of the home occupation or home-based business permit has been violated.
 - B. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
 - C. That the permit was obtained by misrepresentation or fraud.
 - D. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
 - E. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation actions, shall report his or her findings of fact and decision to the Board of Adjustment. The Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.

3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 9.03 Fences

- 9.03.01 No fence shall be constructed within the zoning jurisdiction of the City of Burwell unless a permit is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements:
1. A fence may be built on a common lot line, with an application for a Zoning Permit signed by both property owners, or signed by one property owner with a survey stamped by a Nebraska licensed surveyor.
 2. Unless otherwise provided, the maximum height of a fence within a required front yard or street side yard setback shall be 42 inches.
 3. Fences along the Street Side Yard of a lot may be constructed along the property line.
 - A. Along the Street Side Yard, a fence may be constructed to a maximum of six feet above grade.
 - B. Fences along a Street Side Yard shall not be constructed forward of the rear of the primary structure.
 - C. Fences constructed in the Street Side Yard shall not interfere with any required sight triangle (Section 4.04)
 4. No solid fence shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility. (See Section 4.04 Obstructions to Vision at Street Intersections.)
 5. The finished surfaces of any fence shall face toward adjacent properties or street frontage.
 - A. Fences constructed in a Street Side Yard shall be constructed with the improved side of the fence facing the public way.
 6. Fences constructed within residential districts outside of a required front yard shall not exceed six feet in height.
 7. Fences constructed within non-residential districts shall not exceed eight feet in height.
 8. Fences constructed for agricultural operations shall not require a permit.
- 9.03.02 No fence or vegetation shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a traffic safety hazard.
- 9.03.03 All fences shall be maintained in good repair.
- 9.03.04 Perimeter Fencing
1. All fencing along an arterial or other perimeter road or street in a subdivision shall be consistent in style, type, material, height and color.
 2. Such fence shall be approved by the Zoning Administrator prior to construction.
 3. If not prescribed within the subdivision agreement to be installed all at once, each fence shall require a fence permit and be consistent with the first fence on the perimeter, or in the case of an established subdivision, replacement fences shall be consistent with the dominant fence style, type, material, height, and color. Such requirements shall also pertain the street side yard fencing of lots on the corner of the subdivision entrance(s).

- 9.03.04 Barbed Wire. The use of barbed wire in the construction of any fence is prohibited except:
1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the Zoning Administrator before commencement of construction.
 2. Farm fencing constructed for agricultural purposes on parcels of land 10 acres or more in size located in the TA-1 District.
- 9.03.05 Electric Fences. No electric fence, except for underground invisible fence for animal control, shall be constructed or maintained within the City of Burwell or within its extraterritorial zoning jurisdiction except in TA-1 or RE districts as hereinafter provided.
1. An owner or lessee of such property may, upon application to the City and approval by the Zoning Administrator, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals.
 2. Before the Zoning Administrator shall approve any electrified fencing, it shall be determined that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

Section 9.04 Landscaping Requirements

- 9.04.01 Intent
The intent of landscaping requirements are to improve the appearance of the community to provide a buffer between differing land uses by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with then provisions of this section.
1. 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.
- 9.04.02 Application and Scope
Landscaping shall be provided with all new construction and development including, but not limited to, principal structures, dwellings, and buildings on any lot; parking lots; and redevelopment for which either a building or zoning permit approval is required, except the following:
1. Agricultural buildings, structures and uses.
 2. Replacement of lawfully existing structures or uses.
 3. Additions, remodeling, or enlargements of existing structures,
 - A. Expansion of surface parking shall only be exempt if less than 4,000 square feet in total parking area.
 4. 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.
- 9.04.03 Landscaping Plans
Where landscaping and/or landscape buffers are required by this Ordinance, a Landscape Plan shall be submitted with any application for a Zoning Permit.

Section 9.05 Performance Standards for Industrial Uses

- 9.05.01 Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be 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 or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 9.05.02 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 Burwell.
- 9.05.03 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. 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.
- 9.05.04 Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, 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.
- 9.05.05 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 a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
 - A. 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.
 - B. 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.
 2. 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 Regulations.

3. Gasses: The gasses sulphur dioxide and hydrogen sulfide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be taken at the zoning lot line.
4. 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 of an inch (0.003") measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
5. 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.

- 9.05.06 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts
The following chart displays the maximum permitted sound levels that may be generated by uses in Commercial or Industrial zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

Table 9.05.06**Maximum Permitted Sound Levels at Residential Boundaries**

Originating Zoning District	Time	Sound Level <u>(dbA)</u>
DC/GC	6:00 a.m. - 10:00 p.m.	55
	10:00 p.m. - 6:00 a.m.	55
FLEX	6:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 6:00 a.m.	55
I-1/I-2	6:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 6:00 a.m.	55

Section 9.06 Vehicle and Equipment Repair, Rental, and Sales

- 9.06.01 Where permitted in commercial districts, all repair activities must take place within a completely enclosed building.
1. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways.
- 9.06.02 Any spray painting must take place within structures designed for that purpose and approved by the zoning administrator.
- 9.06.03 All outdoor display areas for rental and sales facilities shall be hard surfaced.
- 9.06.04 Body repair services are permitted as an accessory use to vehicle rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

Section 9.07 Junk or Salvage Yards

Auto wrecking yards, junk yards, and salvage of materials may be allowed in districts identified in the Land Use Matrix; provided the following minimum conditions are met (additional conditions may be required depending upon the operation and the proposed location).

- 9.07.01 The use shall be located on a site with a minimum of two acres, not located within a within a designated 100-year floodplain area as identified on the official Floodplain maps.
 - 1. The lot in question must be located no closer than 300 feet from any residential district.
- 9.07.02 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.
 - 1. See Section 9.03 for Screening requirements.
- 9.07.03 Junk or salvage material kept outside a building or buildings shall not be located closer than 500 feet from any designated State or Federal highway, or locally designated Expressway, Major Arterial, and Other Arterial as per the State of Nebraska Department of Roads or subsequent successor agency.
 - 1. Junk material kept outside a building or buildings shall not be located in the required front yard.
 - 2. 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.
- 9.07.04 All motor vehicles shall have all fluids drained prior to placement within the facility.
- 9.07.05 Burning of paper, trash, junk or other materials shall be prohibited.

Section 9.08 Self-Storage (Mini-Warehouses)

- 9.08.01 Activities within a self-storage facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 9.08.02 Self-Storage Site Design:
 - 1. Minimum lot size of a Self-Storage facility shall be 10,000 square feet.
 - 2. No self-storage facility may be located adjacent to the intersection of two or more Arterial streets.
 - 3. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required;
 - A. At least 35% of all yards shall be landscaped.
 - B. The facility shall have perimeter fencing and a vegetative screen at least six feet in height and 20 feet in width adjacent to any residential district.
 - 4. Storage units may not open into the front yard.
 - 5. All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock, or other approved rock other than gravel.
 - A. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
 - 6. Site development shall include provisions for stormwater management in accordance with the regulations of the City of Burwell.
 - 7. Lighting on site shall not be directed at or allowed to shine on any property in a residential district.

- 9.08.03 All storage must be within enclosed buildings (no outside storage) and shall not include the storage of hazardous materials.
1. The storage of hazardous, toxic, or explosive substances, including, but not limited to, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or used oil, is not permitted.

Section 9.09 Storage Containers

- 9.09.04 Storage (cargo) Containers may be used on a temporary basis as specified in Section 4.13.
- 9.09.05 Storage Containers may be used as a principal or accessory use in certain zoning districts, as specified in the Land Use Matrix in Section 5.06.
1. The proper permit must be approved prior to locating a storage container inside the jurisdiction of the City of Burwell.
 2. Number of Containers
 - A. Lots one acre or less in size may have only one container at a time.
 - B. Lots of any size within the Flex District shall be limited to one container.
 - C. Lots over one acre in I-1 and I-2 may have up to five containers but may not be stacked.
 3. Storage containers must be located within an outdoor storage area which is properly screened according to the regulations herein.
 4. No storage container may be located other than with a Temporary Use Permit within a required setback.
 5. All previous signage on the storage container shall be removed.
 - A. All new signage shall comply with this Zoning Ordinance
 6. Any storage container shall be painted an earth tone color, including greens, tans, terra cottas. Color is subject to approval as part of a Conditional Use Permit.
 7. Storage containers shall be placed on a concrete slab, white rock or stones and must be kept in good repair. Any storage container that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
 8. No storage containers shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Storage containers are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.

Section 9.10 Accessory Dwelling Units

- 9.10.01 One accessory dwelling unit (ADU) per lot may be allowed where dwellings are otherwise permitted in Section 5.06 under the following conditions:
1. The accessory dwelling unit shall fit within the allowable development area of the lot.
 2. The total square footage of the ADU shall not exceed **the lesser of 1,000 square feet or 50% of the square footage of the principal dwelling**, excluding the garages, carports, and space used for mechanical equipment, such as heating, utilities and water heater or pumps. Any other unfinished space in a basement is included in the square footage to allow it to be furnished in the future. The calculation for the principal dwelling shall be based on the floor area as of the date the special permit is filed.
 3. No more than two bedrooms are allowed in the ADU. Bedroom shall mean any room or space used or intended to be used for sleeping purposes.

4. The owner of the lot is required to live on the property in either the principal dwelling or the ADU. The owner of the lot shall file with the Register of Deeds, a deed restriction agreement on the property stating the accessory dwelling cannot be sold separately from the principal dwelling.
 - A. The deed restriction agreement must be to the satisfaction of the City Attorney. The deed restriction agreement shall be recorded prior to approval of a zoning permit for the ADU.
5. The ADU must share the same access point to the public or private street as the principal dwelling.
6. The ADU must meet the same setback requirements as the principal dwelling of the district. The height of the ADU must meet the height limit of the district for a dwelling but be no higher than the principal dwelling.
7. A detached ADU shall be located a distance no greater than 200 feet from the principal dwelling and must not be closer to the street right-of-way than the principal dwelling.
8. The ADU must share utilities with the principal dwelling unless the owner can demonstrate a practical problem with sharing due to the topography or other unique site considerations.

Section 9.11 Dwelling Unit, Special Types

This section is intended to establish special conditions by which Special Types of dwelling units may be established within the jurisdiction of the City of Burwell.

9.11.01 Tiny Houses

Tiny houses fall under two separate categories, Site-Built and RV/Park Model/Camper.

1. Site Built Tiny Houses
 - A. Tiny homes shall have at least one habitable room with not less than 120 sf of gross floor area;
 - B. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
 - C. Habitable rooms shall not be less than seven feet in any horizontal dimension;
 - D. Ceiling height effect on room area:
 - 1) Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - 2) The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
 - E. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
 - F. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
 - G. Tiny homes shall have a kitchen area and sink;
 - H. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
 - I. All electrical shall be in compliance with all local, state and/or federal electrical codes;
 - J. The unit shall meet all egress requirements found in local, state, and/or federal codes;
 - K. All foundations shall meet local, state, and/or federal building codes;
 - L. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
 - M. No Site-Built Tiny House shall be constructed in any floodplain.
2. RV/Park Model/Camper
 - A. The unit shall be constructed upon a single chassis;
 - B. The unit shall have 400 sf or less when measured at the largest horizontal projections;
 - C. The unit shall be self-propelled or permanently towable by a light duty truck;

- D. The unit shall not be considered to be designed for use as a permanent dwelling but as a temporary living quarter;
 - E. All electrical, including temporary hook-ups, shall be in compliance with all local, state and/or federal electrical codes;
 - F. All plumbing and other mechanical systems shall not be permanently connected to a supply or discharge source;
 - G. The wheels and axles shall remain on the unit at all times;
 - H. Accessory structures shall not be supported by these units;
 - I. No RV/Park Model/Camper shall be constructed in any floodplain.
3. Tiny House Villages/Communities
- A. Tiny house villages/communities may be allowed as part of a Manufactured Home Park or development.

9.11.02 Grain Bin Homes

Any residential structure meeting the definition of a grain bin home shall meet the following criteria:

- 1. Grain bin homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
- 2. Grain bin homes shall have at least one habitable room with not less than 120 sf of gross floor area;
- 3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
- 4. Habitable rooms shall not be less than seven feet in any horizontal dimension;
- 5. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
- 6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
- 7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
- 8. Grain bin homes shall have a kitchen area and sink;
- 9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
- 10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
- 11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
- 12. Any and all extensions off the grain bin home shall be structurally designed regarding all attachments and cantilevers';
- 13. All modifications needed to convert the grain bin(s) into a dwelling unit shall be designed and engineered by a licensed architect and/or professional engineer;
- 14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
- 15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

9.11.03 Cargo Container Homes

Any residential structure meeting the definition of a cargo container home shall meet the following criteria:

- 1. Cargo container homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
- 2. Multiple containers shall be structurally and permanently attached to each other;
- 3. Cargo container homes shall have at least one habitable room with not less than 120 sf of gross floor area;

4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall be not less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Cargo container homes shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the cargo container home shall be structurally designed regarding all attachments and cantilevers;
14. All modifications needed to convert the cargo container(s) into a dwelling unit shall be designed and engineered by a licensed architect and/or professional engineer;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
17. No Cargo Container Homes shall be constructed in any floodplain.

9.11.04 Tree-house Homes

Any residential structure meeting the definition of a tree house home shall meet the following criteria:

1. Tree house homes shall only be permitted as an Accessory Use to a primary structure;
2. Tree house homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, and hallways;
7. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
8. All electrical shall be in compliance with all local, state and/or federal electrical codes;
9. The unit shall meet all egress requirements found in local, state, and/or federal codes;
10. All tree house homes designed as recreational structures and/or sleeping quarters shall be structurally designed prior to construction and sealed by a structural engineer.

9.11.05 Quonset Homes

Any residential structure meeting the definition of a Quonset home shall meet the following criteria:

1. Quonset homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Quonset homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Quonset homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the Quonset home shall be structurally designed regarding all attachments and cantilevers';
13. All modifications needed to convert the Quonset into a dwelling unit shall be designed and engineered by a licensed architect and/or professional engineer;
14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

9.11.06 Shouses

Any residential structure meeting the definition of a Shouse shall meet the following criteria:

1. Shouses shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Once a Shouse has been established, the overall structure, including the shop area will no longer be considered an agricultural structure/building;
3. Shouses homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall not less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Shouses shall have a kitchen area and sink;

10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the Shouse shall be structurally designed regarding all attachments and cantilevers';
14. All modifications needed to convert the machine shed into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or professional engineer;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

Section 9.12 Bed and Breakfast Inn

- 9.12.01 Bed and Breakfast Inns shall meet the following requirements:
1. Maintain a residential exterior appearance.
 2. Owner must reside on the premises.
 3. Breakfast must be served on premises, included within the room charge for guests of the facility and shall be the only meal provided.
 4. Off-street parking shall be provided as required by Article 7.

Section 9.13 Short-term Rentals

This section is intended to protect the public health and safety, within the requirements of Neb. Rev. Stat. §18-1758.

- 9.13.01 Performance Standards
1. Said short-term rental shall be located in a primary residential structure.
 - A. An accessory dwelling unit may not be used as a short-term rental.
 2. Said short-term rental shall not be used for party rentals, where located in a residential zone.
 3. Said short-term rental shall file the required lodging taxes.
 4. Said short-term rental shall be properly maintained including structural maintenance and grounds.
 5. Said short-term rental shall meet all state and federal life safety codes and display said permits in a prominent location.
 6. Said short-term rental shall not increase the normal level of traffic in the immediate area.
 7. Said short-term rental shall not be used for any type of illegal activities as defined by state and federal laws.
 8. Said short-term rental shall not be used for any of the following:
 - A. Housing sex offenders;
 - B. Operating a structured sober living home or similar enterprise;
 - C. Selling illegal drugs;
 - D. Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act; or
 - E. Operating a sexually oriented business.

- 9.13.02 Remedies
- Failure to comply with the standards in Section 9.13.01 may result in any permit for a short-term rental to be revoked.

Section 9.14 Recreational Vehicle (RV) Park/Campground

- 9.14.01 An RV Park and/or Campground may be established where permitted under the following conditions:
1. The lot area shall be not less than one (1) acre.
 2. A campground shall provide minimum facilities including central sanitary and water stations, toilets, and refuse containers.
 3. Certification of compliance with all ordinances and regulations regarding zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations shall be provided by the Applicant.
 4. Individual RV campsites, other than tent spaces, shall have a designated area of not less than seven hundred fifty (750) square feet and the total number of RVs per gross acre shall not exceed twenty (20).
 5. Individual camp sites shall be located no less than twenty-five (25) feet from any property line.
 6. The layout of the RV park/campground shall be such that destruction of natural vegetation and topography of the area is minimized.
 7. Individual RV sites will access internal drives and not exit directly onto streets.
- 9.14.02 Application for an RV Park/Campground shall include a site plan with the location and legal description of the proposed site, with a sketch of the individual campsites showing dimensions, roads, parking areas, location of services, and any other buildings or improvements on the site.

Section 9.15 Drive-In and Drive-Through Facilities

- 9.15.01 Any use permitted in a zoning district which intends to conduct a portion or all of its business with persons desiring to remain in their automobiles, or which allows products to be consumed on the premises outside the principal building, and which is not otherwise subject to conditional use review in the provisions in Article 6, must submit a site plan to be reviewed and approved by the City.
- 9.15.02 In reviewing and approving the site plan for such a use, the Zoning Administrator must be satisfied that the traffic circulation on and adjacent to the site conforms to the following criteria:
1. Traffic circulation shall be arranged so that internal pedestrian and vehicular movements are compatible and traffic hazards are minimal.
 2. Traffic circulation, ingress and egress shall be arranged so as to avoid hazardous or adverse effects on adjacent sites and streets.

Section 9.16 Mobile Food Units

- 9.16.01 Mobile Food Units (food trucks) are a temporary use allowed in specific zoning districts; however, these uses shall abide by the following requirements:
1. All units shall be located off of streets/roads, except in the DC Downtown Commercial District where on-street parking may be permitted. On-street parking shall only be allowed during times of operation.
 - A. Mobile Food Units may be parked and/or operated on public property in any zoning district with the public entity's written permission.
 2. Units shall only operate during hours identified on the temporary permit. In no case shall a unit be open for more than one hour after the legal closing time of local bars.
 3. All refuse shall be transported off-site.
 4. No unit shall use intense lights, and all lights shall be downcast and shielded.
 5. During non-operation hours, these units shall be stored in an approved parking lot or in an enclosed structure, except during specific events or the County Fair.

Section 9.17 Roadside Stands

- 9.17.01 A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
- 9.17.02 A roadside stand may be located within a required front yard but no closer than 20 feet to the edge of a traveled roadway.
- 9.17.03 A roadside stand may operate for a maximum of 180 days in any one year.

Section 9.18 Sand and Gravel, Mineral, Stone, Rock, or Soil Extraction and Quarries

- 9.18.01 It shall be unlawful for any owner or owners of property to extract, mine, quarry, or remove soil for commercial purposes without the proper permits, except for use by public entities.
1. When soil is sold, removed, and transported, it shall be the responsibility of the property owner to meet the following conditions:
 - A. The application shall include a grading map showing contours, proposed extraction contours, and proposed final grade contours;
 - B. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties;
 - C. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land;
 - D. The application shall identify proposed vehicle and equipment storage areas;
 - E. 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 facility;
 - F. Topsoil shall be collected and stored for redistribution on the site at termination of the operation;
 - G. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than 3:1 as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
 - H. 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;
 2. Financial Assurances
 - A. The owner of the project shall obtain adequate insurance to cover any of the damage which may occur as a result of this operation and shall assume all liability for any damages. A copy of such insurance or other proof of such insurance shall be submitted to the Zoning Administrator's office prior to issuing a Conditional Use Permit;
 - B. To assure that all of these conditions are met by the owner, a bond contingent on the size of the operation, removal, or extraction may be required to be posted with the City and/or County.
- 9.18.02 Mining Exceptions
1. Removals, extractions, and operations that remove less than 100 cubic yards from a given location, are exempt from this section and permits are not required.
 2. Section 9.18 does not apply to owners who donate soil to a municipality, county, or state.
 3. Section 9.18 does not apply to sand and gravel quarries, or the commercial removal of soil, used for public road purposes.

Section 9.19 Conservation/Preservation Easements

- 9.19.01 In accordance with Nebraska Revised Statute §76-2111, conservation easements and preservation easements as herein defined represent private agreements to separate property rights on a parcel of land.
- 9.19.02 **Approval Required**
In accordance with Nebraska Revised Statutes §76-2112 in order to minimize conflicts with land use planning, any new conservation / preservation easement in the City's Extraterritorial Jurisdiction (ETJ) shall be approved by the City Council. The City Council shall first refer the proposed easement to the Planning Commission which shall, within 60 days of the referral, provide comments regarding the conformity of the proposed easement to the Comprehensive Plan. If such comments are not received within said 60 days, the proposed easement shall be deemed approved by the Planning Commission.
- 9.19.03 **Application for Approval**
The owner or agent of the owner of real property on which a conservation / preservation easement is proposed shall submit a copy of the proposed easement to the Zoning Administrator for referral to the Planning Commission and City Council.
1. The Zoning Administrator shall provide notice for public hearings for both the Planning Commission and City Council with the process as provided for Conditional Use Permit (CUP) review.
- 9.19.04 **Planning Commission Consideration**
In accordance with Nebraska Revised Statutes §76-2112, the Planning Commission shall review the proposed easement for consistency with the Comprehensive Plan, and specifically review the proposed easement for compliance with the definition of such easements as set forth herein and for consistency with the Future Land Use Plan set out in the Comprehensive Plan. If such proposed easement complies with said definition and the Comprehensive Plan, a recommendation of approval shall be forwarded to the City Council. However, a recommendation of denial of such proposed easement may be forwarded if:
1. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with the Comprehensive Plan, or
 2. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with any national, state, regional or local program furthering conservation or preservation, or
 3. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with any known proposal by a governmental body for use of the land on which the easement is proposed.
- 9.19.05 **City Council Consideration**
After receiving a recommendation with regard to any proposed conservation / preservation easement, the City Council shall hold a public hearing on the request.
1. The City Council shall then review the recommendation of the Planning Commission and approve or deny such easement based upon the same factors set forth in Section 9.19.04 above.
 2. The Zoning Administrator shall provide written notification to the Applicant regarding the decision on the proposed easement within 10 calendar days of the decision.

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Section 9.20 Adult Entertainment Establishments

9.20.01 Intent and Rationale

1. The intent of this section is to provide for guidelines and criteria for the regulation, not the elimination, of Adult Entertainment Establishments. The overall purpose is to regulate the secondary effects of these uses within the community.
2. The rationale of this section are based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Planning Commission and City Council, including:
 - A. Bindings, interpretations, and narrowing constructions incorporated in the case of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004), *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); and other applicable case law.
 - B. Reports concerning secondary effects occurring in and around adult establishments.

9.20.02 Definitions

ADULT ARCADE shall mean any place to which the public is permitted or invited in which coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE shall mean a bookstore that offers its customers books, movies, or other novelty items characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT CABARET shall mean a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10% of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction of specified sexual activities or specified anatomical areas.

ADULT COMPANIONSHIP ESTABLISHMENT shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

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

ADULT HOTEL OR MOTEL shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT MASSAGE PARLOR, HEALTH CLUB shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT MINI-MOTION PICTURE THEATER shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE ARCADE shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

ADULT MOTION PICTURE THEATERS shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT NOVELTY BUSINESS shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.

ADULT SAUNA shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ESCORT shall mean a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY shall mean a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

JUICE BAR see *Adult Establishment*

MASSAGE PARLOR see *Adult Establishment*

NUDE MODEL STUDIO shall mean any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a college, community college or university supported entirely or in part by public money; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely, partly by public money or in a structure or private studio:

- A. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;
- B. where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

C. where no more than one nude or semi-nude model is on the premises at any one time.

NUDITY OR A STATE OF NUDITY shall mean the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state.

SEXUAL ENCOUNTER CENTER shall mean a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. activities between either male and female persons or persons of the same sex, or both, when one or more of the persons is in a state of nudity or semi-nude.

SPECIFIED ANATOMICAL AREAS shall mean anatomical areas consisting of less than completely and opaquely covered human genitals, buttock, or female breast(s) below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES shall mean activities consisting of the following:

- A. 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 clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
- B. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- C. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- D. 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
- E. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- F. Human excretion, urination, menstruation, vaginal, or anal irrigation.

9.20.03 Geography: Uses defined as Adult Entertainment Establishments are allowed in a limited manner within Burwell's jurisdiction, as specified in Section 5.06, and are strictly allowed only in those districts that will minimize the secondary effects upon the community at-large.

- 1. Any Adult Entertainment Establishment within the City's Extra-territorial Jurisdiction (ETJ) must be located within ¼ mile of any State or Federal Highway.

9.20.04 Special Requirements:

The following Special Requirements shall be the minimum standards necessary for the City to issue a Zoning Permit. The City reserves the right to add additional requirements that are dependent upon the intensity of the uses within the application and its proximity to other uses and its overall visibility.

- 1. Said businesses shall be screened along adjoining property lines to prevent any direct visual contact of the adult business at the perimeter.
- 2. No Adult business shall be closer than 500 feet to any similar use and no closer than 500 feet to a residential district or use, religious use, educational use or recreational use. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the closest point on the property line of such other adult business, residential district or use, religious use, educational use or recreational use.

3. Said businesses shall be screened along adjoining property lines so as to prevent any direct visual contact of the adult business from the perimeter.
4. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Store and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
5. No adult business shall be open for business between the hours of twelve-midnight (12:00 a.m.) and six a.m. (6:00 a.m.).
6. The proposed location, design, construction and operation of the particular use shall provide adequate safeguards to protect the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
7. Such use shall not impair an adequate supply of light and air to surrounding property.
8. Such use shall not unduly increase congestion in the streets or public dangers, including fire and safety hazards.
9. Such use shall be in accord with the intent, purpose and spirit of this Resolution and the Comprehensive Development Plan of Burwell, Nebraska.
10. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property. The application shall also include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
11. An adult business shall post a sign at the entrance of the premises that shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for admission to the premises.

9.20.05 Prohibited Activities of Adult Businesses:

1. No adult business shall employ any person under 18 years of age
2. No adult business shall furnish any merchandise or services to any person who is under 18 years of age
3. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Resolution or any other laws of the State.
4. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

Section 9.21 Biofuels and Distillation Facilities

- 9.21.01 The following conditions shall be met when locating a biofuels facility within the zoning jurisdiction of Burwell . The standards are intended to protect the health, safety, and general welfare of the residents of Burwell and the surrounding region.
1. Access to the facility shall be paved and connect to a hard surfaced street/road classified as an arterial.
 2. If access is onto a county road or City street, the applicant must provide evidence that the paving of such highway, road or street is sufficient to carry, without damage to the roadway, the weight and size of the loads of grain and liquid and any by-product entering or leaving the facility by truck.
 - A. If the road or street is not capable of carrying the weight and size of the loads, then the applicant shall be required to make any necessary upgrades to the paving in order for the pavement to handle the size and weight of the loads.
 3. The applicant shall be required to construct and acquire rights-of-way for all turning lanes and signals necessary to handle the increase in truck traffic.
 - A. The facility if located adjacent to a railroad line shall have sufficient area to provide for sidings for loading and unloading raw or finished product. The sidings shall be constructed at the applicant's expense.
 4. The facility shall not be located in an area where winds and other climatic events disperse odor, steam, smoke and other discharges into the corporate limits of the City of Burwell .
 5. The facility shall not be located in an area where topography impairs the dispersal of steam, smoke, or other discharges from the facility.
 6. Water supply wells for the facility shall not be located within the 20-year time of travel of any municipal well.
 7. The facility shall be designed to recycle, in a manner compliant with all City and state rules and regulations, a minimum of 75% of the water used by the facility including water used for distillation.
 8. All fuel storage tanks shall be located in a manner that will not allow for contamination of any groundwater or surface water.
 9. Total equipment height limited to the requirements of the zoning district.
 10. All fuel storage tanks shall be within an impermeable containment levy system.
 11. Lighting must be compliant with all applicable regulations.
 12. Noise produced by facility must comply with noise ordinance regulations.
- 9.21.02 Site plan review is required through the Conditional Use Permit process, prior to development.

Section 9.22 Radio, Television, and Wireless Communications Towers

9.22.01 Intent

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (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, 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.

9.22.02 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, the Spectrum Act of 2012, and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

Base Station shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

Broadcasting Tower shall mean a structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding 50 feet in height shall not be considered broadcast towers.

Collocation shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Conforming Commercial Earth Station shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

Eligible Facilities Request is defined as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

In Writing refers to the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

Owner shall mean any person with a fee simple title or a leasehold exceeding ten 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.

Replacement shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

Specific and Absolute Timeframe shall refer to the timeframe allowed for processing a telecommunication application under Section 6409 (a) of the Spectrum Act of 2012.

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.

Telecommunications Facilities shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include: a. Any Conforming Commercial Earth Station antenna two meters or less in diameter; b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

Tower shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

Tower Owner shall mean any person with an ownership interest of any nature in a proposed or existing tower.

Transmission Equipment shall mean any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

9.22.03 Tower Construction Standards

1. Towers shall be permitted uses of land in only those zoning districts where specifically listed and authorized in Section 5.06 of this regulation.
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 and issuance of the permit by the Zoning Administrator.
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 regulation 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 Zoning Administrator.

9.22.04 Application to Develop a Tower:

1. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:
 - A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
 - B. The legal description and address of the tract of land on which the tower is to be located.

- C. 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.
- D. 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.
- E. 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.
- F. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street, or highway.
- G. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
- H. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. The 60-day application processing period may be extended only:
 - 1) By mutual agreement between the City of Burwell and the applicant, or
 - 2) By the Zoning Administrator's determination that the application is incomplete.
 - a) If the Zoning Administrator deems the application to be incomplete, the City shall notify the applicant of the incompleteness within 30 days of the initial filing.
 - b) The Zoning Administrator shall clearly and specifically delineate in writing the missing information.
 - c) The clock shall resume when the information is provided, but may be tolled again if the Zoning Administrator notifies the applicant within 10 days that the application remains incomplete.
 - d) The Zoning Administrator shall not request new information beyond what is already required.
 - 3) If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.

9.22.05 Setbacks and Separation or Buffer Requirements

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

- 1. Measurements
 - A. 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.
 - B. 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. The Planning Commission may approve, a reduction in tower setbacks with a Conditional Use Permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.

3. 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.
 - A. Towers in excess of 50 feet in height shall be set back a minimum of 100% of the tower height.
4. Towers may be located in residentially zoned districts, as specified in Section 5.06, provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the property owner, by a minimum of one hundred percent (100%) of the height of the tower.
6. 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. Towers shall be held to all height requirements as prescribed by the FAA.
8. As part of a conditional use approval process and after public notice and hearing, the Planning Commission may approve waiver of height restrictions otherwise required in the district.

9.22.06 Structural Standards for Towers Adopted:

1. 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.
2. Tower structures shall be designed to allow collocation.

9.22.07 Illumination and Security Fences:

1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence 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.

9.22.08 Exterior Finish:

1. 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 Planning Commission.
2. Stealth Towers: All towers that must be approved as a conditional use shall be stealth design, unless stealth features are demonstrated to be impractical or the cost of such features represents an undue burden on the applicant.

9.22.09 Landscaping:

All tracts of land on which towers, antenna support structures, telecommunications facilities, and/or antennas are located shall be landscaped and maintained.

9.22.10 Prohibitions

According to the FCC, "[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

9.22.11 Substantial Change

The City of Burwell may only require an amended permit for changes or modifications to a telecommunication tower/system which are defined by the FCC as "substantial".

1. Substantial Change shall mean any of the following:
 - A. Towers outside the public right-of-way, a "substantial change"
 - 1) increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
 - 2) Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
 - B. Towers in the right-of-way, and all base stations, a "substantial change"
 - 1) increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
 - 2) protrudes from the edge of the structure more than 6 feet
 - C. All Towers and base stations, a substantial change:
 - 1) involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 - 2) entails any excavation or deployment outside the current site of the tower or base station;
 - 3) defeats the existing concealment elements of the tower or base station; or
 - 4) does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the "substantial change" thresholds identified above.
2. Changes in Height
 - A. Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.
 - B. In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.
 - C. Note, the changes are measured cumulatively; otherwise a series of small changes could add up to a cumulative change that exceeds the "substantial change" threshold.

9.22.12 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 Zoning Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Inspections shall be made by the Burwell Zoning Administrator, or a duly appointed independent representative of the City.

9.22.13 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.

9.22.14 Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Burwell 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.

9.22.15 Review Denial Procedures for Permit

1. Any decision to deny an application to place, construct or modify a wireless facility and/or tower must be "in writing" and supported by substantial evidence contained in a written record.
2. The regulation of placement, construction, and modification of personal wireless services facilities by the City of Burwell shall not unreasonably discriminate among providers of functionally equivalent services;
3. The regulation of the placement, construction, and modification of personal wireless service facilities by the City of Burwell shall not prohibit or have the effect of prohibiting the provision of personal wireless services;
4. The City of Burwell shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations.

Section 9.23 Amateur Radio Towers

9.23.01 Noncommercial radio towers not exceeding 50 feet in height are not considered Wireless Communications Towers by definition.

9.23.02 Radio towers, antennas, and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission (FCC).

9.23.03 Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Planning Commission may grant a Conditional Use Permit (CUP) to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the Planning Commission shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).

- 9.23.04 Amateur radio towers shall be subject to typical provisions for Accessory Structures, including setback requirements.
1. Such radio towers shall not be located within any front yard.
 2. In the TA-1 district, the antenna installation shall be set back from public streets abutting the antenna installation site by a distance equal to or greater than the antenna installation height. The distance between the antenna installation and site boundary shall be equal to or greater than 50% of the antenna installation height. The distance between the anchors of the antenna installation and site boundaries shall be equal to or greater than the setback requirements established in the underlying zoning district.
- 9.23.05 Tower Standards
1. The tower shall have a galvanized finish or other rust inhibiting finish but can be painted green below treetop level. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the minimum standards therefore.
 2. To prevent vandalism or injuries, adequate security measures shall be provided around the antenna installation base (such as security fence with a locking portal) or other device designed to prevent unauthorized access to the antenna.
- 9.23.06 Application requirements
1. The application shall be accompanied by a site plan showing site boundary, locations of the proposed antenna installation, guy wire anchors, and nearby structures, tower design and building materials, equipment to be attached to the tower (e.g. antennas, mast, and rotor, etc.), and setbacks from the site boundary.
 2. The application shall include a statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to its design, unobtrusiveness, minimum height necessary to accommodate the radio service communications, avoidance of artificial light and coloring provisions.

Section 9.24 Data Centers

- 9.24.01 Intent.
- The purpose of this section is to regulate the location, design, construction, and operation of data centers within the jurisdiction in order to promote efficient and responsible development, ensure compatibility with surrounding land uses, protect the environment, and safeguard public health, safety, and welfare.
- 9.24.02 Data Center Facilities
1. Data Centers may be established in areas with adequate infrastructure, including but not limited to reliable power supply, access to fiber-optic networks, and appropriate road capacity.
 - A. Applicant shall provide evidence of sufficient water and wastewater capacity from the Utility provider, or certification by a Professional Engineer if water is to be provided by well and onsite wastewater treatment systems.
 - B. Applicant shall provide a signed letter from the electric utility demonstrating ability to serve the facility without decreased system capacity.
 - C. Applicant shall be responsible for all costs to extend infrastructure to the data center site.
 2. Data centers shall be allowed as a principal or accessory use within Districts designated in the Land Use Matrix.
 3. Accessory uses directly related to data center operations, such as maintenance facilities, security offices, and employee amenities, are allowed as permitted.

9.24.03 Development Standards

1. Setbacks and Buffer Zones
 - A. Buffer zones consisting of landscaping, walls, or other appropriate measures may be required to provide visual and noise mitigation between the data center and adjacent properties, particularly in residential or sensitive use areas.
 - B. Data centers shall be designed to ensure compatibility with the surrounding built environment, including the use of materials, colors, and architectural elements blending into the character of the area.
 - C. Exterior walls and roofs should be designed to minimize the visual impact of the facility, such as through the use of earth-tone colors and non-reflective surfaces.
2. Sufficient on-site parking spaces shall be provided to meet the needs of employees and visitors, while minimizing adverse impacts on the surrounding area.
3. Access to data centers should be designed to ensure efficient traffic flow and prevent congestion, considering the volume and type of anticipated traffic.

9.24.04 Environmental Considerations

1. Data centers shall be designed and operated to maximize energy efficiency, including the use of energy-efficient servers, cooling systems, and lighting.
2. Renewable energy sources, such as solar or wind power, should be considered for on-site energy generation whenever feasible.
3. Data centers shall implement water-efficient practices, including the use of recycled water for cooling systems and landscaping, and the installation of water-saving fixtures within the facility.

9.24.05 Operational Requirements

1. Data centers shall have emergency response plans in place to address potential hazards, such as power outages, fires, and natural disasters.
2. Adequate fire suppression and detection systems shall be installed and maintained in compliance with applicable fire codes.
3. Data centers shall implement noise mitigation measures to minimize impacts on nearby residential areas, including the use of sound-insulated walls and equipment enclosures.
4. Data centers shall implement appropriate security measures, including controlled access, surveillance systems, and adequate lighting, to ensure the protection of data and infrastructure.

Section 9.25 Ag and Livestock Regulations

- 9.25.01 Intent.
This Section is written specifically to provide regulations for agricultural and Livestock Feeding Operations (LFOs) for Burwell, Nebraska, and the Burwell extra-territorial jurisdiction (ETJ) in Garfield County.
- 9.25.02 LFOs
1. A minimum of one acre is required for the first AU and 1/2 -acre for each additional AU where provided in the Land Use Matrix in Section 5.06.
 - A. A minimum of one acre is required for the first AU and 1/2 -acre for each additional AU.
 2. No LFO may be established within ½-mile of an existing residential building or an approved, platted residential lot.

Article 10: Renewable Energy

Section 10.01 Intent

It is the intent of this article to provide for the orderly development of renewable energy generation facilities in conformance with the Burwell Comprehensive Plan, while ensuring adequate protection of public health, safety, and welfare.

10.01.02 Definitions

The following renewable energy terms are defined for the specific use of this article.

Battery Energy Storage Systems (BESS) shall mean devices which enable energy to be stored and then released when the power is needed, not to include a single stand-alone 12-volt car battery or an electric motor vehicle.

Fall Zone shall mean the area, defined as the furthest distance from a tower base, in which a tower will collapse in the event of a structural failure, as certified by a Nebraska-registered Professional Engineer. This area is typically less than the total height of the structure.

Net Metering shall mean a system of metering electricity in which a local distribution utility buys excess power from customer-generator facilities with a rated capacity at or below twenty-five kilowatts.

Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades.

Solar Conversion System (SCS) shall mean an assembly, structure, or design, including passive elements or accessory BESS, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

Solar Conversion System, Commercial (CSCS) shall mean a commercial solar conversion system is a series of solar panels and equipment connected together in order to commercially supply the converted energy to a community and/or power grid. A CSCS shall have a one-way connection to the power grid.

Solar Conversion System, Ground-Mounted shall mean any SCS which is directly supported and attached to the ground.

Solar Conversion System, Individual (ISCS) shall mean an individual solar conversion system shall be for the specific use of an individual residential, commercial, public or industrial use.

Solar Conversion System, Neighborhood (NSCS) shall mean a neighborhood solar conversion system, a series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.



Example of a Solar Conversion System, Ground-mounted

Structurally-mounted System shall mean an energy production system designed to be mounted on a building, including residential dwellings.

Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System (WECS).

Tower shall mean, for the purposes of this Article, the vertical structures that support electrical, rotor blades, or meteorological equipment.

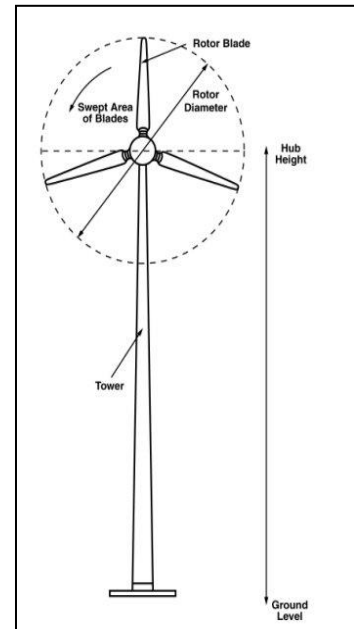
Tower Height shall mean, for the purposes of this Article, the height above grade of the first fixed portion of a wind turbine tower, excluding the wind turbine itself. AKA *Hub Height*.

Wind Energy Conversion System (WECS) shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: accessory BESS, power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid; also known as a "Wind Farm".

Wind Turbine shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.



Example of a Solar Conversion System, Structure-mounted



Section 10.02 Battery Energy Storage Systems (BESS)

10.02.01 Purpose.

No Battery Energy Storage System (BESS) shall be installed or constructed within the zoning jurisdiction of the City of Burwell, Nebraska, unless the appropriate zoning permit has been issued. All BESS units shall be constructed in conformance with Nebraska building and fire codes, including applicable National Fire Prevention Association (NFPA) safety codes.

10.02.02 Definitions

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

BESS Tier 1 is a BESS device capable of storing an aggregate energy capacity less than or equal to 600 kWh and consists of only a single energy storage system technology.

BESS Tier 2 is a BESS device capable of storing an aggregate energy capacity greater than 600 kWh or uses more than one energy storage system technology or chemistry.

10.02.03 General Provisions for BESS

The following provisions shall apply to all BESS installations, principal use (stand-alone) or as an accessory use:

1. BESS Tier 1 installations, located within existing buildings, are exempt from zoning permits. Any BESS installation shall follow all applicable performance standards of the zoning regulations.
 - A. No BESS installation shall otherwise be allowed except as permitted in the Land Use Matrix.
2. All BESS installations shall meet NFPA 855 standards safety code thresholds for batteries.
3. Non-utility on-site power lines shall be buried except where connecting to existing overhead utility lines.

10.02.04 Performance Standards

1. Setbacks

BESS installations shall conform to all required lot setback requirements for a principal or accessory use as they may be considered, except as provided herein:

- A. A ground-mounted BESS may be located in a required rear yard only, provided it does not exceed 12-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.
- B. Setbacks: No ground mounted BESS shall be located in the required front yard or side yard.

2. Structural Requirements

The physical structure, equipment, and connections to existing structures shall conform to the applicable local, state, and federal codes.

3. Noise

- A. No BESS shall exceed 50 dBA, as measured at the closet neighboring inhabited dwelling unit.

4. Safety and First Responder Standards

The owner/developer of any BESS Tier 2 installation shall provide emergency plans and hazard information, and maintain such information on file with the Zoning Administrator, identifying design requirements for fire or environmental considerations, information and training for local first responders, and codes/safety standards for equipment.

5. Decommissioning

- A. Whenever a BESS ceases operation on a property, the property owner shall be required to report this to the Zoning Administrator and the electric utility.
- B. Whenever a BESS Tier 1 or Tier 2 is no longer operating, the property owner shall have six months to completely remove all equipment and wiring. The location of the BESS shall be returned to a usable state based upon site conditions.
- C. For BESS Tier 2 installations, the City reserves the right to require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.

10.02.05 Submittal Requirements

- 1. An application for a zoning permit for a BESS (Tier 1 or Tier 2) shall contain the following information:
 - A. A site plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the BESS installation, the distances of the BESS to structures on the property as well as distances to the property lines.
 - 1) The site plan shall include adjacent roads, electric lines, and/ or overhead utility lines and easements.
 - B. A description of the electrical storage capacity, storage chemistry, and means of interconnection to the electrical grid (if any) as coordinated and pre-approved with the appurtenant Power District.
 - C. Drawings or blueprints for the BESS equipment.
 - D. Manufacturer's recommended installations, if any.
 - E. Documentation of land ownership and/or legal authority to construct on the property.
 - F. Decommissioning plan.

Section 10.03 Solar Energy Uses

10.03.01 Purpose.

No solar panel, neighborhood solar, or solar farm shall be installed or constructed within the zoning jurisdiction of the City of Burwell, Nebraska, unless a zoning permit has been issued. All solar units shall be constructed in conformance with all state and national building and fire codes. For those devices that include electrical, plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in this section.

10.03.02 Definitions

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

Accessory Solar Energy Systems shall mean, for the purposes of this Article, any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

Concentrated Solar Power shall mean a solar conversion system (SCS) that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: Parabolic trough, Solar power tower, enclosed trough, Fresnel reflectors and Dish Stirling.

Net Excess Generation shall mean, on an ISCS, the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period.

Solar Access shall mean the ability to receive sunlight across real property for any solar energy device.

Solar Access Easement shall mean a right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

Solar Skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

1. Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.
2. Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock (8:00) A.M. and four o'clock (4:00) P.M. local apparent time from March 23 through September 21 of each year.

Solar Oriented Subdivision shall mean a subdivision in which a minimum of 65% of the lots are solar-oriented lots.

10.03.03 General Provisions Applying to ISCS, NSCS, and/or CSCS

The following provisions shall apply, typically, to two or more of the different solar conversion systems in this Section

1. Agriculture: Solar panels used to provide power to agricultural irrigation wells, potable drinking wells, and other agricultural uses (not residence, barns, sheds) shall be exempt from these regulations.
2. For Commercial and Neighborhood SCS: Applicant shall provide evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application.
3. For Commercial and Neighborhood SCS: Applicant shall comply with specific requirements of the local fire department.
4. Maintenance: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner based upon the ground cover decided.
5. Decommissioning: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upfront by the City of Burwell, the electric utility, and the owner/developer.
6. Repowering: If any SCS is no longer operating for purposes of Repowering, replacement, or maintenance, Decommissioning provisions will not apply for up to six months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and Decommissioning provisions will apply.
 - A. Repowering does not require a new Conditional Use permit or permit amendment if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.
7. Other Requirements:
 - A. Any applicant for a SCS project shall demonstrate they have met the requirements of the electric utility and have in place an interconnection agreement with the electric utility.
 - B. Details shall be included of any proposed Battery Energy Storage Systems (BESS).
 - C. All NSCS and CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.
 - D. SCS may be installed in the floodway fringe subject to floodplain regulations, as may be amended from time to time, given that all components are installed a minimum of two feet (2') above base flood elevation and subject to written authorization of the Floodplain Administrator.
 - 1) No SCS shall be constructed in the identified Floodway.
8. Concentrated Solar Power (CSP) systems are prohibited within Burwell's jurisdiction.
9. Decommissioning Plan: Financial assurances shall be maintained as part of the Decommissioning Plan.

10.03.04 Individual Solar Conversion Systems (ISCS)

1. General Requirements for ISCS.

ISCS's shall conform to the required front, side, and rear lot setback requirements except as provided herein:

 - A. The applicant for any ISCS shall provide evidence that they have a valid Net Metering agreement with the electric utility.
 - B. An ISCS which is attached to an integral part of the principal building shall meet all local, state, and federal codes for building, electrical, plumbing, and accessibility.
 - C. A ground-mounted ISCS may be located only in the required rear yard provided it does not exceed 12-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.

- D. **Setbacks:** No ground mounted ISCS shall be located in the required side yard or front yard.
- E. All ISCS's shall have an agreed solar access easement, on the south side of the yard, from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground mounted SCS is in place and operational.
- 2. **Structural Requirements:** The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.
- 3. **Site Plan:** The application for a zoning permit shall be accompanied by a site 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.
- 4. **Preexisting Solar Panels:** Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these Regulations, pursuant to a valid permit issued by Burwell, may continue to be utilized so long as it is maintained in operational condition.
- 5. **Decommissioning**
 - A. Whenever an SCS ceases operation on a property, the property owner shall be required to report this to the Zoning Administrator and the electric utility.
 - B. Whenever, a ground mounted SCS is no longer operating, the property owner shall have six months to completely remove the structure and wiring. The location of the SCS shall be returned to a usable state based upon the surrounding property.

10.03.05 Neighborhood Solar Conversion Systems (NSCS)

- 1. **General Requirements for NSCS:**
 - A. NSCS's shall meet the following requirements as provided herein:
 - 1) An NSCS shall be set on its own lot within the neighborhood/development, and shall meet underlying setbacks for principal structures.
 - 2) The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development.
 - 3) No excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a Net Metering agreement.
 - 4) The developer shall provide the City with all solar easements established; however, the City shall not be responsible for enforcing said easements.
 - 5) All solar easements shall be enforced by an established Homeowners Association for the development/neighborhood.
 - 6) A ground mounted NSCS shall be protected with fencing and/or bollards.
 - 7) All connections to the uses within the neighborhood shall be made underground.
 - 8) An access agreement between the developer, Homeowners Association, and any other necessary other entity and the electric utility shall exist in case of an emergency.
 - 9) A Net Metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity; and
 - 10) All ground mounted NSCS's shall have an agreed solar access easement from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground-mounted NSCS is in place and operational.
- 2. **Structural Requirements:** The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

3. Solar Oriented Subdivision/Site Plan
 - A. Whenever a NSCS is part of a proposed new subdivision, the developer shall outline the specific lot or outlot where the NSCS will be placed.
 - 1) Specific developments/neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.
 - B. The application for a permit shall be accompanied by a site 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.
 - C. The developer shall install all underground wiring as prescribed by the electric utility.
 - D. All underground wiring shall be protected by a utility easement or located within prescribed rights-of-way.
 - E. The developer shall provide the Zoning Administrator with as-builts including wiring locations.
4. Decommissioning
 - A. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.

10.03.06 Commercial Solar Conversion Systems (CSCS):

1. Applicability

The purpose of this subsection is to provide standards for fixed-panel photovoltaic solar farms or CSCS consisting of ground-mounted solar panels capturing energy from the sun and converting it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels supporting the flow of rainwater between each module and the growth of vegetation beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, The City finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in urbanized, non- urbanized, or low-density areas with other uses.
2. Site Development Standards:
 - A. **Lot coverage:** Requirements of the underlying zoning shall apply to solar panels and structures.
 - B. **Setbacks:** A twenty-five (25) foot setback shall be provided from all property lines or road/access easements.
 - 1) A fifty-foot (50') setback shall apply measured from a lot line that abuts a residential zoning district.
 - 2) Power inverters or other sound-producing equipment (producing in excess of 50 dBA) shall be set back a minimum of one hundred fifty (150) feet from all property lines.
 - C. **Height:** Solar panel arrays shall not exceed 15 feet in height; otherwise, height requirements of the district shall apply.

- D. Landscaping Buffer: The primary use of the property shall determine the buffer requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered industrial or agricultural for the purposes of buffer requirements, there are no requirements for screening from public streets.
 - E. Stormwater Management: Fixed panel solar arrays shall be considered pervious and the property shall be designed to absorb or detain specific runoff. The impervious cover calculation shall include the support posts of the panels, any roads or impervious driveway surfaces, parking areas and buildings on the site.
 - F. Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing up to eight feet in height is permitted provided the fencing material is predominantly open.
 - G. Fire Safety: Suitable fire department access shall be required.
 - H. Signage: Signs shall conform to the City Sign Regulations.
 - I. Power Lines: Customer-owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
 - J. Other Codes: All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis, and historic preservation.
3. Submittal Requirements:
- All Plans shall contain the following:
- A. A site plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines.
 - B. The site plan shall include roads, electric lines, and/ or overhead utility lines.
 - C. A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant Power District.
 - D. A copy of the interconnection agreement with the local electric utility.
 - E. Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant.
 - F. Structural engineering analysis for a solar panel, array and its foundation, as applicable.
 - G. Manufacturer's recommended installations, if any.
 - H. Documentation of land ownership and/or legal authority to construct on the property.
 - I. Decommissioning plan.
4. Compliance with Other Regulations:
- A. Zoning permit applications for CSCS's shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State's adopted electrical code and that has been pre- approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
 - B. This subsection does not waive any requirements of any state or Federal codes, electrical codes or other technical codes as applicable.

5. Discontinuation.
 - A. A CSCS shall be considered abandoned after one year without energy production. The solar equipment owner shall remove all SCS equipment and appurtenances within 90 days of abandonment.
 - B. The Decommissioning Plan shall ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site.
 - C. The City of Burwell reserves the right to require the posting of a bond or letter of credit to ensure proper decommissioning.

Section 10.04 Small Wind Energy Systems (WECS)

10.04.01 Purpose and Findings

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. The City of Burwell finds that wind energy is an abundant, renewable energy resource. The City, through this regulation, will permit small wind energy systems for individual "Net Metering" use.

10.04.02 Definitions

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

Micro-Wind Energy Conversion System shall mean a wind energy conversion system (WECS) of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

Small Wind Energy System shall mean a wind energy conversion system (WECS) consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

10.04.03 Requirements

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed in the Land Use Matrix. The following requirements shall also apply:

1. Tower Height
 - A. For property of ½ acre to one acre, the tower height shall be limited to 80 feet.
 - B. For property of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Noise
 - A. Small wind energy systems shall not exceed 50 dBA, as measured at the closet neighboring inhabited dwelling unit.
 - B. The noise level may be exceeded during short term events such as utility outages and/or severe windstorms.
3. Approved Wind Turbines
 - A. Small wind turbines must have been approved under a small wind certification program recognized by the American Wind Energy Association (AWEA).
4. Compliance with Building and Zoning Codes
 - A. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - B. An engineering analysis of the tower showing compliance with the adopted building code of the governing body and/or the State of Nebraska and certified by a Nebraska professional engineer shall also be submitted. The manufacturer frequently supplies this analysis. Wet stamps shall not be required.
5. Compliance with National Electrical Code
 - A. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to demonstrate the manner of installation conforms to the National Electrical Code. The manufacturer frequently supplies this analysis.
6. Compliance with FAA Regulations
 - A. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

7. Utility Notification
 - A. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - B. Off-grid systems shall be exempt from this requirement.
8. Setbacks
 - A. All towers shall adhere to the setbacks established in the following table (most restrictive shall apply):

	Wind Turbine – Small WECS
Property lines	One times the total height
Neighboring dwelling units	1.25 x total height
Road rights-of-way*	One times the tower height
Road easements*	One times the tower height
Public conservation land	NA
Wetlands and rivers as identified by the National Wetlands Inventory	NA
River bluffs of over 15 feet	NA
Distance between multiple turbines	One times the total height

* ROW setback shall be measured from edge of the road easement for a County/Township Road or the edge of a platted street, road, or highway.

Section 10.05 Commercial/Utility Scale Wind Energy Conversion Systems (WECS)

10.05.01 Purpose and Findings

In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Burwell, Nebraska, the City finds these regulations are necessary in order to ensure that wind energy conversion systems (WECS) are appropriately designed, sited and installed. These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. TAs emerging technology and new means of collecting wind energy are under development, these standards will be reviewed and should be amended as technology advances.

10.05.02 Definitions

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

Abandon shall mean, for purposes of this section, failure to have a power purchase agreement in place for 90 days and decommissioning has not commenced, or any turbine has not been actively generating and selling power for 365 days.

ADLS Lighting System shall mean an Aircraft Detection Lighting System (ADLS) which provides reliable, continuous 360-degree radar surveillance of the airspace around sites and automatically activates obstruction lighting only when aircraft is detected within outer perimeter area.

Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

Bond, Collateral shall mean, for purposes of this section, an indemnity agreement for a fixed amount, payable to the City of Burwell, executed by the owner and supported by the deposit with the City of Burwell of negotiable bonds of the United States (not treasury certificates) or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States or other surety acceptable to the City.

Bond, Surety shall mean, for purposes of this section, an indemnity agreement in a certain sum, payable to the City of Burwell, executed by the owner which is supported by the performance guarantee of a corporation licensed to do business as a surety in Nebraska.

Commercial WECS shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

Commenced Commercial Operation shall mean, for purposes of this section, the signed date on the turbine completion certification for the turbine whose capacity first brings the wind generation facility's cumulative generating capacity to 100 kW or more.

Decommission/Decommissioning shall mean, for purposes of this section:

- (a) the removal of aboveground wind turbine tower(s) after the end of a wind generation facility's useful life or abandonment;
- (b) except as provided in rule, the removal of all buildings, cabling, electrical components, roads, or any other associated facilities; and
- (c) except as provided in rule, reclamation of all surface lands to the previous grade and to comparable productivity in order to prevent adverse hydrological effects.

Electric Utility shall mean the public electric utility providing retail service to a given area.

Expansion shall mean, for purposes of this section, the addition of one or more additional wind turbines to operation of a wind generation facility after commencing commercial operation.

Facility, WECS shall mean, for purposes of this section, any component of a Wind Energy Conversion System (WECS).

Feeder Line shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

Infrastructure, WECS shall mean, for purposes of this section, the physical structures, and facilities (e.g. buildings, roads, towers, power supplies, transformers, etc.) needed for the operation of the WECS enterprise.

Meteorological Tower shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

Owner, WECS shall mean, for purposes of this section, a person(s) or entity who owns turbines, towers, and/or other components of a wind energy conversion system.

Person shall mean, for purposes of this section, any individual, firm, partnership, company, association, corporation, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

Public Conservation Lands shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to Natural Resource District (NRD) recreation areas, State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

Small Wind Energy System See Section 10.04 above.

Substation shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 kV) for interconnection with high voltage transmission lines.

Shadow Flicker shall mean the visual strobe-like effect that occurs when the rotating blades of wind turbines cast repeating shadows.

Transmission Line shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Wind Farm—See WECS.

Wind Generation Facility—See WECS.

10.05.03 Application Requirements

Commercial/Utility Scale wind energy systems (WECS) shall be permitted as a conditional use within any district where the use is listed and allowed in the Land Use Matrix. Meteorological Tower(s) may be approved separately from or together with an aggregated Wind Farm application. The following requirements and information shall be met and supplied:

1. The name(s) and contact information of project applicant with proof of signature authority.
2. The name(s) and contact information of project owner(s).
3. Names of property owner(s) and legal description of the project area.
4. Narrative: A description of the project including number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines, and means of interconnecting with the electrical grid.
 - A. Include the name of turbine manufacturers and models, and BESS specifications if any.
5. Site layout plan(s):
 - A. The site plan(s) shall be drawn so that North is to the top, and include:
 - 1) Legal description, including tax identification/parcel numbers,
 - 2) Location of property lines and setbacks,
 - 3) Proposed location of wind turbine towers, indicating the location, height, and distance to nearest existing or proposed structures and property lines,
 - 4) Direction of prevailing winds,
 - 5) Electrical grid, including one-line diagram of the interconnection,
 - 6) Location of all underground structures including septic tanks and wells,
 - 7) Easements, right-of-way (names included), building locations, setback lines, and overhead utilities lines on project property,
 - 8) Proposed road access points,
 - 9) Related accessory structures including any proposed battery systems.
 - B. The site plan shall show adjacent property and structures, noting existing structures, land use and zoning designations, to extent of required setbacks.
 - C. The latitude and longitude of individual wind turbines shall be noted.
 - D. Site layout shall be drawn to scale, stamped, and sealed by a Nebraska Professional Engineer or Licensed Surveyor.
6. A USGS topographical map, or maps, showing:
 - A. Any other WECS or turbines within 10 rotor distances of the proposed WECS facility;
 - B. Location of all known communication towers within two miles of the proposed WECS facility
 - C. Location of water bodies, waterways, wetlands, bluffs, historic sites, scenic areas, parks, and wildlife management areas within two miles of the proposed WECS facility.
7. Description of potential impacts on nearby WECS facilities and wind resources on adjacent properties.
8. Documentation required by Section 10.05.07 below of:
 - A. Land ownership and/or legal control of the property.
 - B. Easement agreements.
 - C. Copies of required federal permits and notifications
9. Acoustical and Infrasound Analysis certifying the noise requirements in this regulation can be met.
10. Shadow Flicker Analysis required by Section 10.05.07(08) below.
11. Professional Engineer's certification required by Section 10.05.07(10) below.
12. Road Reports required by Section 10.05.08 below.
13. Decommissioning Plan including proposed financial guarantee, as required by Section 10.05.09 below.

10.05.04 Aggregated Projects

1. Aggregated projects may jointly submit a single application for the entire Wind Farm and be reviewed under a single proceeding, including notices, public hearings, reviews, and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

10.05.05 Performance Standards

All WECS facilities shall adhere to the following performance standards.

1. Site Area: Located on a lot or parcel of at least 10 acres in size.
2. Noise: No commercial/utility WECS shall exceed 50 dBA at the nearest inhabitable dwelling.
 - A. Noise may exceed 50 dBA during periods of severe weather as designated by the US Weather Service.
3. Monopole: All wind turbines which are a part of a commercial/utility WECS shall be installed with a tubular, monopole type tower.
4. Clearance: Rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
5. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
 - A. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
6. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the Federal Aviation Administration (FAA) permits and regulations.
 - A. All CWECS projects, which require notice to the FAA via 14CFR, Part 77 obstruction evaluation process, will be required by the City of Burwell to submit to the FAA a request for Aircraft Detection Lighting System (ADLS) Marking and Lighting (M&L) Study.
 - 1) Upon completion of the M&L Study, the ADLS shall be installed, commissioned, and maintained to the extent allowed by the FAA. ADLS shall be operational within 12 months of the start of construction.
 - B. Lighting should be positioned or shielded to avoid visual impact to neighboring properties to the extent possible conforming to FAA rules. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
7. Feeder Lines: All electrical lines equal to or less than 34.5 kV in capacity installed as part of a WECS shall be buried at least six feet below finished grade, unless proven infeasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
8. Ownership notice: The owner of record of any WECS shall notify the Zoning Administrator of any subsequent change of ownership.

10.03.06 Setbacks

1. All towers shall adhere to the setbacks established in the following table (the most restrictive shall apply):

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Participating landowner property line	1.1 x total height	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or a distance equal to total height.
Distance to participating landowner dwelling**	1.5 x total height ¹	1.1 x total height
Distance to non-participating landowner property line	1.25 x total height	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or a distance equal to total height.
Distance to non-participating inhabitable dwelling**	1.5 x (tower height + rotor diameter) ²	1.1 x total height
Distance to State highway right-of-way*	1/2 Mile	
Distance to other road right-of-way or easement*	1.1 x tower height	
Public conservation land	1 mile ³	600 feet
Wetlands and rivers as identified by the National Wetlands Inventory	800 meters for wetlands suitable for Whooping Crane or other water or shorebirds; 200 meters for all others ⁴	600 feet
River bluffs of over 15 feet	1,320 feet	
Distance between non-participating turbines	1.0 x total height	

* ROW setback shall be measured from edge of the road easement for a County/Township Road or the edge of a platted street, road, or highway.

** The setback for dwelling units shall be **reciprocal** in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

2. Impact Easements. Recorded documents shall specifically identify the legal description of the subject property.
- A non-participating property owner may request to build closer than allowed in this section by signing and recording an Impact Easement from any operations within the required separation distance.
 - A WECS owner may encroach on the required setback distance to non-participating property lines with a recorded Impact Easement signed by the affected property owner.

¹ For Ice Fall: Canadian Renewable Energy Association. *Best Practices for Wind Farm Icing and Cold Climate Health & Safety*. June 2020, pp-7-8.

² For Ice Shed: Ibid, pp. 7-8.

³ Nebraska Wind and Wildlife Working Group, pp. 12-13.

⁴ Ibid, page 28. Certain regions and wetland complexes may require greater buffers for wildlife protection.

10.05.07 Safety and Design Standards and Additional Requirements

All WECS facilities shall adhere to the following safety and design standards:

1. Signage: All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
 - A. All other signage shall comply with the sign regulations found in these regulations.
2. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
3. Interference: The Applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the Zoning Administrator for a Conditional Use Permit.
4. Drainage System: The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, or maintenance of the WECS.
5. FAA: Applicant shall provide copies of FAA notices of determination of no hazard to air navigation.
6. FCC: Applicant shall provide evidence appropriate FCC permits have been filed.
7. Easements: Easement agreements for transmission lines, feeder lines and substations required for the operation of the WECS, shall be in place prior to application for a permit.
 - A. Easements shall be filed with the Butler County Register of Deeds.
 - B. Voluntary easements for the crossing of any form of neighboring properties shall be required and filed with the Application.
8. Shadow Flicker: Applicant shall conduct an analysis on potential shadow flicker at any occupied building with direct line- of-sight to the WECS.
 - A. The analysis shall identify the locations of shadow flicker that may be caused by the project and expected durations of the flicker at these locations from sun-rise to sun- set over the course of a year.
 - B. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problems.
 - C. Shadow Flicker on a building shall not exceed thirty (30) hours per year.
9. Incident Plan: Applicant shall prepare an Incident Response Plan which ensures their employees have the necessary equipment and training to effectively handle emergencies such as oil spills, turbine fires, turbine structural damage (or collapse) or equipment, including access to heavy equipment needed for rescue of trapped personnel.
 - A. The Fire Chief shall sign-off on the Incident Response Plan prior to beginning operations.
10. Engineer's Certification: Certification shall be provided by a Professional Engineer competent in disciplines of wind energy conversion systems and approved by the City, including the following:
 - A. Design specifications of the wind energy unit, including the tower, base, and footings, and unit components.
 - B. For buildings or structurally-mounted units, the certified and sealed engineering plans prepared by a Professional Engineer registered in the State of Nebraska must show how the wind energy unit will be installed for the portions of the structure proposed for use in the mounting of the unit, and must state and show that the proposed wind energy unit is compatible with the portions of the mounting structure proposed for use, and does not impose a safety hazard to the main structure or adjacent property or their occupants.

- C. Drawings that indicate the total finished wind energy unit height from the grade level of each structure prior to any modifications and including any engineered break points on the tower.
- D. The wind survival speed of the entire unit, including the supporting structure, turbine, rotor blades, covers, and other components.
- E. Data pertaining to the tower or supporting structure's safety and stability, including any safety results from test facilities.

10.05.08 Roads and WECS projects

- 1. Applicants shall apply for a unique 911 address for each WECS tower.
 - A. The 911 address shall be posted at the road entrance for each tower, and on or at each tower, no higher than fifteen feet above ground level.
- 2. Prior to the start of construction, Applicants shall:
 - A. Identify haul routes for all municipal, township, or county roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation, or maintenance of the WECS, and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 - B. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions, to determine existing road conditions.
 - 1) The survey shall include photographs and a written agreement to document the condition of the public facility.
 - C. Be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
 - D. Provide material safety data sheets (MSDS) to the Zoning Administrator pertaining to materials utilized on the project.

10.05.09 Discontinuation and Decommissioning

- 1. A WECS shall be considered a discontinued use after one year without energy production, unless a continuation plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service.
 - A. The Zoning Administrator may refer the continuation plan to the Planning Commission for consideration of revocation under Section 6.10.02.
 - B. An amended permit is required when the height of any tower is changed, or when BESS or additional towers are added to the project.
- 2. Each Commercial/Utility WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use.
 - A. The Decommissioning Plan shall include at minimum:
 - 1) The manner in which the facility will be decommissioned;
 - 2) A decommissioning schedule;
 - a) All above-ground structures, including Meteorological Towers, shall be removed within 90 days of the discontinuation of use as defined.
 - 3) Detailed estimate of the cost of decommissioning a wind generation facility by a professional engineer licensed in the State of Nebraska, including:
 - a) dismantling and removal of all towers, turbine generators, transformers, overhead cables and debris of the facility;
 - b) removal of all underground cables
 - c) removal of foundations, buildings, and ancillary equipment to a minimum depth of forty-eight (48) inches below grade;

- d) site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil respread over the disturbed areas at a depth similar to that in existence prior to the disturbance, and reseeding at achieve the same utility of native vegetation of the surrounding area to prevent adverse hydrological effects,
 - e) repairs and reconstruction from damage to public roads, culverts and natural drainage ways resulting directly from the decommissioning of a wind generation facility;
 - f) the current salvageable value of the facility, as determined by an independent evaluator.
 - B. All access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise, or the City/County through official action of the City Council/County Board agrees to keep the road.
 - C. The cost estimates shall be made by a competent party.
 - 1) The plan shall also identify the financial resources available to pay for decommissioning and removal of the WECS and accessory facilities.
 - 2) Expenses related to the decommissioning shall be the responsibility of the WECS facility owner, including any expenses related to releasing any easements.
- 3. Applicant shall provide as-built plans including structural and electrical drawings of all facilities and all disturbances associated with the wind generation facility. The as-built plans must be certified by a professional engineer licensed in the State of Nebraska as complete and accurate.
- 4. The Planning Commission reject a decommissioning plan if:
 - A. it finds that the plan does not provide for decommissioning as defined in this section; and
 - B. the plan does not adequately describe the cost of decommissioning.
- 5. Decommissioning Guarantee.

Decommissioning performance surety is required upon approval of a conditional use permit granted for the installation of Commercial WECS Facilities. The surety must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner / operator until decommissioning has been satisfactorily completed or transfer to the City of Burwell.

 - A. Determination of Surety Amount

The Planning Commission may require submission of a bond, letter of credit, or other surety by the Applicant and project owner(s) in the amount of the estimated cost to Burwell as if the City had to perform the decommissioning and reclamation work required of an owner. This amount is based on the cost estimated in the Decommissioning Plan to ensure compliance with this section.
 - B. Review of Surety

The Planning Commission shall review each decommissioning plan and bond amount every 5 years. The City may increase or decrease the required surety if the cost to decommission a wind generation facility changes significantly.

Article 11: Non-Conformities

Section 11.01 Nonconformities, 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 title.

Section 11.02 Nonconforming Lots of Record

- 11.02.01 In any district, notwithstanding limitations imposed by other provisions of this ordinance, a primary structure and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance.
1. 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.
 2. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
- 11.02.02 If two or more lots or combinations of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width below the requirements stated herein.

Section 11.03 Nonconforming Structures

- 11.03.01 Authority to continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 11.03.02 Enlargement, Repair, Alterations: Any such structure described in this section 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 conditional use permit unless otherwise approved or as specified in the Residential District.

- 11.03.03 Damage or Destruction: In the event that any structure described in this section is damaged or destroyed, by any means other than intentional destruction, to the extent of more than 50% of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in this section, shall not have a side yard of less than five feet.
1. When a structure is damaged to the extent of less than 50% of its 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 is diligently pursued to completion.
 2. Complete reconstruction of a nonconforming structure may be allowed through a Conditional Use Permit (CUP) if the structure is damaged or destroyed by natural means and not through intentional destruction or actions of the property owner or tenant. Reconstructed structures shall not be allowed to increase the level of nonconformity with regard to setbacks or lot coverage.
- 11.03.04 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 11.04 Nonconforming Uses

- 11.04.01 Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such 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 of this ordinance;
 2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
 3. If any such nonconforming use of land ceases for any reason for a period of **more than 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.
- 11.04.02 Nonconforming Uses of Structures: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
 2. Any nonconforming 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 nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 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 nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 11.05 Repairs and Maintenance

- 11.05.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing 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.
- 11.05.02 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 11.06 Uses under Conditional Use Permit Not A Nonconforming Uses

Any use for which a special exception or conditional use permit (CUP) has been issued as provided in previous ordinances shall **not** be deemed a nonconforming use but shall without further action be deemed a conforming use in such district. A CUP shall run with the land, unless otherwise specified by the Planning Commission in conditions of approval. Any change in use shall conform to this Ordinance.

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Article 12: Board of Adjustment

Section 12.01 Members, Terms and Meetings

12.01.01 Pursuant to Neb. Rev. Stat. § 19-908 (R.R.S. 1997), the City of Burwell hereby creates the Board of Adjustment (BOA).

Section 12.02 BOA Members

- 12.02.01 The BOA shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason,
1. Each member is to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.
 2. At such time as more than two hundred persons reside within the extraterritorial zoning jurisdiction (ETJ), the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the ETJ of the City. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its ETJ.

Section 12.03 Rules and Meetings

12.03.01 The Board of Adjustment shall adopt rules in accordance with the provisions of Neb. Rev. Stat. §§ 19-901 to 19-914 (R.R.S. 1997). Meetings of the BOA shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the BOA shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Section 12.04 Appeals to Board, Record of Appeal, Hearings and Stays

12.04.01 As provided in Neb. Rev. Stat. § 19-909 (R.R.S. 1997), appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

- 12.04.02 An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown.
- 12.04.03 The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

Section 12.03 Powers and Jurisdiction on Appeal

- 12.03.01 The Board of Adjustment shall have the following powers:
1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; and
 2. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and
 3. To grant dimensional variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.
- 12.03.02 No such variance shall be authorized by the Board unless it finds:
1. The strict application of the Ordinance would produce undue hardship; and
 2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
 4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- A. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

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

Section 12.04 Appeals to District Court

- 12.04.01 Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. §19-912, (R.R.S.1997).

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Article 13: Applications and Permits

Section 13.01 Purpose

13.01.01 This Article describes the process for review of applications for development review.

Section 13.02 Zoning Administrator

- 13.02.01 The provisions of this Ordinance shall be administered and enforced by a Zoning Administrator as appointed by the City, who shall have the power to make inspection of buildings or premises necessary to carry out their duties in the enforcement of this Ordinance.
- 13.02.02 The Zoning Administrator shall have the following authority and responsibility.
1. Make available to the public application forms for permits, conditional use requests to the Commission, amendments to this Resolution and / or Official Zoning Map, and for appeals to the Board of Adjustment; and issue zoning permits and certificates of zoning compliance as required by this regulation, and to maintain records of all such applications and permits issued.
 2. Conduct inspections of sites and structures to determine compliance with the terms of the Zoning Regulations. Where violations are determined to exist, the Zoning Administrator shall have the authority to issue letters of violation, stop work orders and any other legal remedy to assure compliance with the requirements of this Resolution.
 3. Provide interpretation of the text of this regulation and the Official Zoning Map when necessary and such other technical and clerical assistance as the public, the Planning Commission, Board of Adjustment, and City Council, may require.
 4. Maintain and provide information to the public regarding the requirements of the Zoning Regulations and provide for the timely publishing of legal notices and other notifications relative to administration of this Resolution as prescribed by law.
 5. Maintain permanent and current records with regard to this Resolution, including but not limited to all maps, amendments, zoning permits, certificates of zoning compliance, variances, appeals, conditional uses and applications thereof together with all records of meetings and public hearings.

Section 13.03 Permits and Approvals

- 13.03.01 The following shall apply to all development as defined and use of land within Burwell's Zoning Jurisdiction:
1. 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 Zoning Administrator has issued a zoning permit for such work.
 2. Issuance of a Zoning Permit

Applications for any approval required by this Regulation shall be made on forms provided by the Zoning Administrator.

 - A. The applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size, height, and location of all structures to be erected, altered, or moved, and of any building already on the lot.
 - 1) Applicant shall also state the existing and intended use of all buildings and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed.

- B. 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 Zoning Administrator shall issue a zoning permit for such excavation or construction.
 - 1) If a zoning permit is refused, the Zoning Administrator 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.
- C. The Zoning Administrator 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.
- D. A zoning 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.

Section 13.04 Certificate of Zoning Compliance

- 13.04.01 No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a Certificate of Zoning Compliance stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a Certificate of Zoning Compliance if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

Section 13.05 Penalties and Remedies

- 13.05.01 Pursuant to Neb. Rev. Stat. §19-913, the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed 100 dollars for any one offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.
- 13.05.02 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 Neb. Rev. Stat. §§19-901 to 19-914, 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.

Article 14: Amendment Process

Section 14.01 Purpose

This Article describes methods by which changes are to be made in the text of the Zoning Ordinance (text amendment) and/ or the official boundaries of zoning districts (rezoning/zone map amendment).

Section 14.02 Initiation of Amendments

- 14.02.01 Text amendments may be initiated by an Applicant with standing, the Planning Commission, or the City Council.
- 14.03.02 Map amendments may be initiated by a property owner or authorized agent, the Planning Commission, or the City Council.

Section 14.03 Amendment Application Requirements

- 14.03.01 An application for a Rezoning may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator, for presentation to the Planning Commission. The application must be filed, and all plans must be submitted, at least 14 days prior to the scheduled meeting of the Planning Commission at which the application is to be heard. The application shall include the following information:
 - 1. Name and address of the applicant.
 - 2. Owner, address, and legal description of the property.
 - 3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
 - 4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Planning Commission to be necessary to describe the proposed use to approving agencies. The site plan, should be drawn to scale sufficient to permit adequate review and dimensioned as necessary, showing at least the following information:
 - A. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - B. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - C. The location, size, and use of proposed and existing structures on the site.
 - D. The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
 - E. Location of any major site feature, including drainage and contours at no greater than five-foot intervals.

Section 14.04 Amendment Procedures

- 14.04.01 Regulations, restrictions, and boundaries authorized to be created pursuant to Neb. Rev. Stat. §§ 19-901 to 19-915 may from time to time be amended, supplemented, changed, modified, or repealed.
1. Public Hearing
The Planning Commission and City Council shall each hold a public hearing on any proposed amendment. The Public Hearings shall be held at a reasonable hour and place for such public hearing, and they shall hold said hearings at the next regular meeting after proper notification of adjacent property owners.
 2. Planning Commission Review
No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first consideration by the City Planning Commission. The Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.
 3. Notice of Hearings
Public notice of hearing on a proposed amendment shall be published once in the official City newspaper and at least ten days shall elapse between the date of publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed change in regulations or restrictions or the zoning classification or zoning district boundaries of the property.
 - A. The provisions of Neb. Rev. Stat. § 19-904 relative to public hearings and official notice shall apply equally to all changes or amendments.
 - 1) In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such posted 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 (1-1/2) 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. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor.
 - B. If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses, at least ten days prior to such hearing.
 - C. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least 10 days prior to such hearing.

- 14.04.02 Pursuant to Neb. Rev. Stat. § 17-1001(4)(a), the City shall provide notice to the County Board of Commissioners when proposing to adopt or amend this zoning regulation, when such proposal affects the extraterritorial zoning jurisdiction (ETJ) of the City, within the county.
1. Written notice of the proposed change shall be sent to the county board or its designee at least thirty days prior to the final decision by the City.
 2. The county board may submit comments or recommendations regarding the change in the zoning regulation at the public hearings on the proposed change or directly to the City within thirty days after receiving such notice.
 3. The City may make its final decision (i) upon the expiration of the thirty days following the notice or (ii) when the county board submits comments or recommendations, if any, to the City prior to the expiration of the thirty days following the notice.
- 14.04.03 Protests. In case of a protest against such change, signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet there from, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the legislative body of such municipality.
1. The provisions of this section in reference to notice shall not apply (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of Neb. Rev. Stat. § 19-904 shall be applicable.

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Article 15: Legal Status Provisions

Section 15.01 Severability

- 15.01.01 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.
- 15.02.02 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 15.02 Repeal of Conflicting Ordinances

- 15.02.01 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 15.03 Effective Date

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

ADOPTED AND APPROVED by the Governing Body of Burwell, Nebraska,

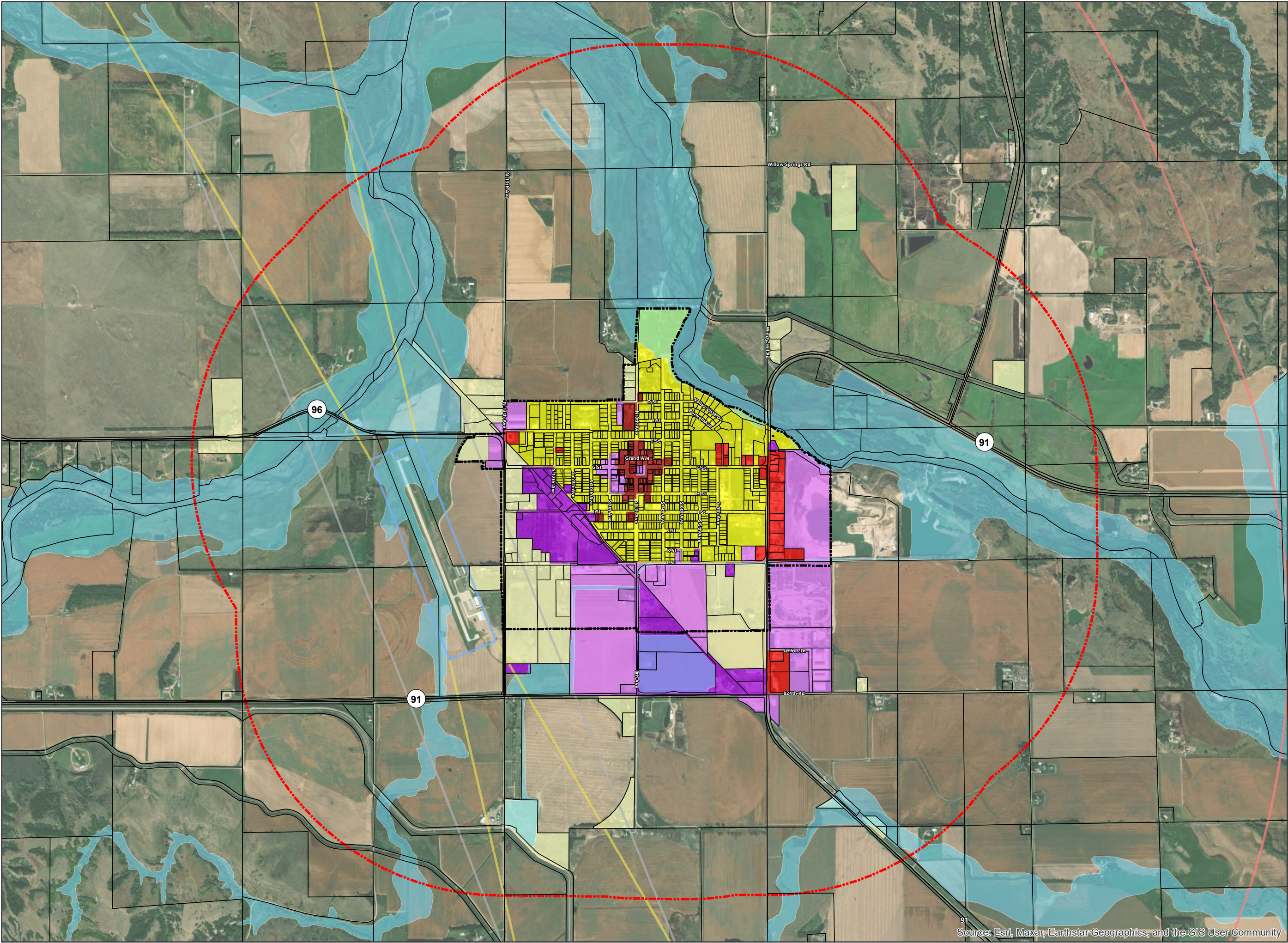
This _____ day of _____, 2024.

(Seal)

ATTEST: _____
City Clerk

Mayor

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BURWELL, NEBRASKA

COMPREHENSIVE PLAN

OFFICIAL ZONING MAP

- LEGEND**
- Municipal Limit
 - Parcels
 - Highways
 - 1-Mile Planning Area
- District**
- Transitional Agriculture (TA-1)
 - Residential Estates (RE)
 - Residential District (R-1)
 - Manufactured Housing Park (MHP)
 - Downtown Commercial (DC)
 - General Commercial (GC)
 - Flex Commercial/Industrial (FLEX)
 - General Industrial (I-1)
- Airport Overlay**
- Layer**
- Approach Zone
 - 3-Mile Turning Zone
 - Operation Zone
 - Transition Zone
- Floodplain**
- 1% Annual Chance Flood Hazard

THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN SECTION 3.02 OF ORDINANCE NO. 383 OF THE CITY OF BURWELL, GARDEN COUNTY, NEBRASKA. THIS OFFICIAL ZONING MAP SUPERSEDES AND REPLACES ANY OR ALL OTHER OFFICIAL ZONING MAPS ADOPTED PRIOR TO THIS DATE. ADOPTED ON THIS 10TH DAY OF SEPTEMBER, 2024.

MAJOR		ATTESTED: CITY CLERK	
REVISION DATE	ORDINANCE NO.	SIGNATURE	REVISION DATE

N

MPC
MARVIN PLANNING CONSULTANTS
Specializing in Municipal, County and Neighborhood Planning

PROJECTION: NE State Plane (Ft.)
DATUM: NAD 83
DATE: 9.10.24

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