
ARTICLE 1: GENERAL PROVISIONS

SECTION 101 TITLE

This Ordinance shall be known, referred to, and cited as the “Zoning Ordinance of the City of O’Neill, Nebraska”.

SECTION 102 JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the City of O’Neill, Nebraska and the territory beyond said corporate limits which is within one mile of said corporate limits, as defined on the Official Zoning Map of the City of O’Neill, Nebraska, as the same may be amended by official action upon subsequent annexations.

SECTION 103 PURPOSE

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

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

ARTICLE 2: APPLICATION OF REGULATIONS

SECTION 201 GENERAL APPLICATION

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

SECTION 202 ZONING AFFECTS EVERY BUILDING AND USE

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

SECTION 203 GENERAL PERFORMANCE STANDARDS

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

SECTION 204 OPEN SPACE, PARKING AND LOADING AREAS

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

SECTION 205 YARD AND LOT REDUCTION PROHIBITED

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

SECTION 206 COMBINATION OF LOTS OR PORTIONS OF LOTS

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

SECTION 207 PROVISIONS ARE MINIMUM REQUIREMENTS

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

SECTION 208 DISCLAIMER OF BUILDING AND OTHER CODES AND LIABILITY: This Ordinance is a zoning regulation only and regulates only the use of land. This Ordinance does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical, structural or other code or regulation which would regulate the design and construction of any building or structure within the jurisdiction of this Ordinance. Any permits or certificates issued in accordance with the requirements set forth in this Ordinance are solely for the purpose of assuring compliance with the land usage limitations and requirements set forth in this Ordinance and for the purposes described in Section 103 of this Ordinance. The City of O'Neill, Nebraska assumes no liability and

shall not in any manner be held liable for any design or construction problem or defect in any building or structure for which a zoning permit or certificate of zoning compliance or other form of land usage approval may have been issued

nor shall the City of O'Neill, Nebraska assume any liability whatsoever for non-compliance with any federal, state or other code, regulation or requirement.

ARTICLE 3: CONSTRUCTION AND DEFINITIONS

SECTION 301 CONSTRUCTION

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

301.01 TENSE:

Words used in the present tense include the future tense.

301.02 NUMBER:

Words used in the singular include the plural and words used in the plural include the singular.

301.03 SHALL AND MAY:

The word “shall” is mandatory. The word “may” is permissive.

301.04 GENDER:

The masculine shall include the feminine and the neuter.

301.05 HEADINGS:

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

SECTION 302 GENERAL TERMINOLOGY

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

SECTION 303 DEFINITIONS

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

303.01 ABUT: Any situation where a lot or parcel borders directly on another lot or parcel or is separated from another lot or parcel by a public right-of-way which is twenty (20) feet or less in width.

303.02 ACCESSORY USE OR BUILDING: A building or use, which is located on the same premises, is subordinate to the principal building or use of the premises and is customarily **associated with and is** incidental to such principal building or use of the premises.

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

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

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5. **ADULT HOTEL OR MOTEL:** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
 6. **ADULT MASSAGE PARLOR, HEALTH CLUB:** A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
 7. **ADULT MINI-MOTION PICTURE THEATER:** A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
 8. **ADULT MOTION PICTURE ARCADE:** Any place to which public is permitted or invited wherein coin or slug-operated or electronically, or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
 9. **ADULT MOTION PICTURE THEATER:** A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
 10. **ADULT NOVELTY BUSINESS:** A business which has a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.
 11. **ADULT SAUNA:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot aid as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
 - 303.12 AGRICULTURAL USE:** The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, raising and management of poultry, fish, bees and other animals, including confined and intensive animal feeding use, as defined in Sections 303.43 and 303.73 of this Ordinance, truck farming, forestry or orchards, the non-commercial storage and processing of agricultural products produced on the premises, and confinement of fewer than three hundred (300) head of ruminant animals for birthing, weaning or back-grounding purposes for less than one hundred eighty (180) days in any calendar year in lots or pens normally used for crop production or vegetation, provided that such use shall not include any waste handling facilities, as defined in Section 303.133 of this Ordinance which may be associated with any confined or intensive animal feeding use.
 - 303.13 AGRONOMIC RATE:** The application of plant nutrients, from all sources, to meet, but not exceed, the estimated annual nutrient needs of the crop being produced, based upon past or projected yields, so as to avoid build-up of nutrients including, but not limited to, nitrate, chloride, ammonia and phosphorus. Determination of the agronomic rate shall include the available nutrients in the soil, the nitrogen content of any irrigation water, and the nutrient content of any animal wastes and commercial fertilizer to be applied.
 - 303.14 ALLEY:** A dedicated public right-of-way other than a street, which provides secondary access to property abutting such right-of-way.

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- 303.15 ANIMAL HOSPITAL OR VETERINARY CLINIC:** An establishment where animals are admitted principally for examination, treatment, and/or board or care by a Doctor of Veterinary Medicine, excluding outdoor kennels or runs as defined in Section 303.75 of this Ordinance.
- 303.16 ANIMAL WASTE:** Any animal excrement, animal carcass, feed waste, animal waste water, or other waste associated with the care and feeding of animals.
- 303.17 ANIMAL WASTE WATER:** 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 Section 303.133 of this Ordinance, or any spillage or overflow from animal watering systems where such spillage or overflow comes in contact with any animal excrement, manure, litter, bedding or other waste product, 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.
- 303.18 APARTMENT:** A part of a two-family (duplex) or multi-family dwelling consisting of a room or suite of rooms intended, designed, or used as a residence by an individual or individuals or single family.
- 303.19 ARTISAN PRODUCTION SHOP:** Shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory uses.
- 303.20 ARTIST STUDIO:** Shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application of teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.
- 303.21 AWNING:** A structural extension over the exterior of a door or window, which provides protection from sun and / or rain.
- 303.22 BASEMENT:** A space, wholly or partially underground, having more than one-half (1/2) its height, measured from its floor to its ceiling, below the average finished grade of the ground surrounding such space.
- 303.23 BED AND BREAKFAST USE:** A building, other than a hotel, motel or boarding or lodging house, where for compensation, temporary lodging and breakfast is provided by the occupant of such building to persons lodging in rooms at the premises where such rooms are not equipped with individual cooking facilities.
- 303.24 BOARDING HOUSE, LODGING HOUSE:** A building, other than a motel or hotel, where for compensation, lodging and meals are provided to persons residing in rooms at the premises where such rooms are not equipped with individual cooking facilities.
- 303.25 BLOCK:** An area of land that is entirely bounded by streets, by streets and the exterior boundaries of a subdivision, or by a combination of the above with a river, lake, or railroad line.
- 303.26 BUILDABLE AREA:** The portion of a lot remaining after required setbacks (yards) have been provided.
- 303.27 BUILDING:** A structure having a roof and intended for the enclosure, shelter or protection of people, animals or property.
- 303.28 BULK STORAGE:** The storage of materials for distribution to other locations and not for use or consumption of such materials on the premises.

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- 303.29 CAMPGROUND:** A premises where two (2) or more camping units are parked or placed for camping purposes, or a premises used or set apart for supply to the general public, camping space for two (2) or more camping units for camping purposes, including any buildings, structures, vehicles or enclosure used or intended wholly or partially for the accommodation of transient campers.
- 303.30 CAMPING UNIT:** A vehicle, tent, trailer, recreational vehicle or other movable shelter used for camping purposes.
- 303.31 CANOPY:** A roof projection over a door, entrance into a building, a drive through window or over business related uses including automatic teller machines, bank by car facilities, fuel pumps and the like which is supported only by attachment to the main building and by posts or columns and is without walls.
- 303.32 CARPORT:** An awning or roofed structure intended to provide shelter for a vehicle or vehicles, which may be free standing or partially supported by a building.
- 303.33 CERTIFICATE OF ZONING COMPLIANCE:** A written certificate, issued by the Zoning Administrator, stating that the premises has been inspected after the erection, construction, reconstruction, alteration or moving of a building or structure, or after a change in use of the premises and that such building, structure, and use complies with the applicable provisions of this Ordinance.
- 303.34 CHILD CARE CENTER:** A facility used for the care of children from different families, which is or should be licensed by the Nebraska Department of Social Services as a day care center or home.
- 303.35 CLINIC, MEDICAL, DENTAL OR HEALTH:** A building designed for use by one or more persons lawfully engaged in the diagnoses, care and treatment of physical or mental ailments or diseases of human beings, including but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, where no patients are lodged overnight.
- 303.36 CLUB:** An establishment operated for social, fraternal, recreational or educational purposes, which is open only to club members and not the general public.
- 303.37 COMMERCIAL USE:** A use, other than an agricultural use, where products are grown or purchased for sale or resale for profit or where services are sold or provided for profit.
- 303.38 COMMISSION:** The City of O'Neill, Nebraska Planning Commission.
- 303.39 COMPATIBLE USE:** A use of land suitable for direct association with abutting and/or surrounding uses of land because of consistency with the intent of the applicable zoning district, because the use exhibits similar or comparable characteristics as abutting and/or surrounding uses, and because a mutually harmonious relationship with respect to protecting the use, value and enjoyment of property will result.
- 303.40 COMPREHENSIVE PLAN:** The plan or series of plans for the future development of the City of O'Neill, Nebraska, recommended to the Mayor and City Council by the Planning Commission and duly adopted by action of the City Council of the City of O'Neill, Nebraska.
- 303.41 CONDITIONAL USE:** A use of land that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, size, height, intensity, location or relationship to the surrounding property would promote the public health, safety, morals, convenience and general welfare.
- 303.42 CONDITIONAL USE PERMIT:** A written zoning permit, issued by the Zoning Administrator after action by the Planning Commission and City Council, which provides permission, under specific conditions, to develop certain uses of land in certain zoning districts that are set forth as conditional uses in each zoning district contained in this Ordinance.

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- 303.43 CONFINED LIVESTOCK FEEDING: CONFINED ANIMAL FEEDING USE:** The raising, feeding or management of more than three hundred (300) animal units at any one time in roofed buildings or structures which may be open sided or totally enclosed and which may have hard surfaced, slatted or other type of surfaced floor, and / or on hard surfaced, non-earthen, outdoor pens or lots used for confinement of such animals. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the owner of such use of the one-time capacity of such use to the County. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the animal unit capacity by the Zoning Administrator or other duly appointed official at the time of such dispute. Any waste handling facilities, as defined in Section 303.133 of this Ordinance, associated with such confined animal feeding use shall be considered a separate waste handling facility use.
- 303.44 CONVENIENCE STORE:** A retail store specializing in the sale of gasoline and the sale of articles such as food products, over-the-counter drugs, tobacco products, magazines, candy, beverages and similar convenience items which are purchased frequently for “near term” consumption and use. A retail store not selling both gasoline and convenience goods shall not be considered a convenience store.
- 303.45 COURT:** An outdoor, unoccupied space open to the sky, enclosed on all sides by the exterior walls of a building or buildings.
- 303.46 CUL-DE-SAC STREET:** A street having one end open to traffic and being terminated on the opposite end by a vehicular turnaround.
- 303.47 DAY CARE CENTER / NURSERY SCHOOL:** An establishment, other than public, private non-religious or parochial school, which provides day care, play groups, nursery school or education for five (5) or more unrelated children.
- 303.48 DEAD STORAGE:** The storage of any partially dismantled, non-operating, wrecked, junked, discarded or unregistered vehicle or parts thereof on a premises, provided that storage of such vehicles in an entirely enclosed building shall be permitted.
- 303.49 DEVELOPED AREA:** An area of land, consisting of one or more parcels or lots, which fronts on one side of a street between two intersecting streets or in the absence of any intersecting street, a distance of one hundred fifty (150) feet on either or both sides of the sides of the lot on which development is proposed, whereon at least fifty one (51) percent of the parcels or lots are developed with buildings.
- 303.50 DISTRICT (ZONING):** A section or sections of this Ordinance which sets forth uniform regulation regarding use of land, minimum lot widths, frontages and areas, minimum yards, maximum building heights and similar regulations.
- 303.51 DUPLEX:** See Section 303.57 - DWELLING, TWO-FAMILY.
- 303.52 DWELLING:** A building or portion thereof, which is designed and used for residential living.
- 303.53 DWELLING, ASSISTED LIVING:** A dwelling, which is part of a multi-family dwelling (see Section 303.55) designed for occupancy by elderly or disabled persons, in which the elderly or disabled occupants are provided varying forms of home care and / or medical or nursing assistance.
- 303.54 DWELLING, ATTACHED:** A residential building which is joined to another residential building on one or more sides by a common wall.
- 303.55 DWELLING, MULTI-FAMILY:** A building, other than a hotel, motel, boarding or lodging house or bed and breakfast facility, used by five or more unrelated persons or families living independently of each other in separate dwelling units.

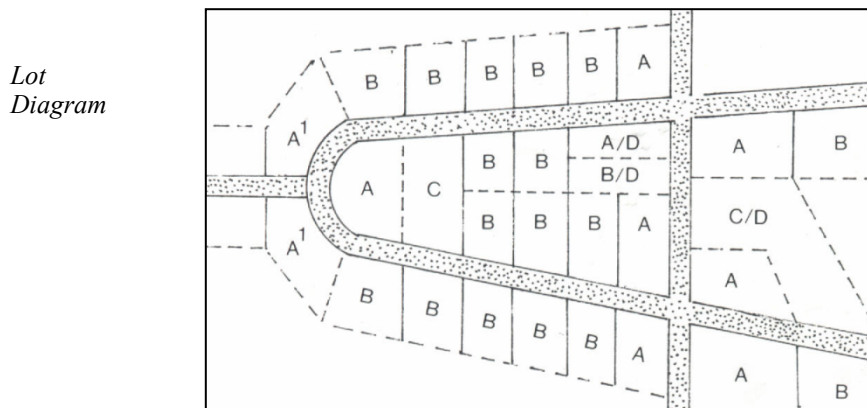
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- 303.56 DWELLING, SINGLE-FAMILY:** A building, other than a manufactured or mobile home, having accommodations for and intended to be occupied exclusively by one family.
- 303.57 DWELLING, TWO-FAMILY:** A building, other than a manufactured home or mobile home, having independent accommodations for and intended to be occupied exclusively by two families.
- 303.58 DWELLING UNIT:** Multiple rooms connected together, which constitute a separate and independent residence for human occupancy and which contains cooking, sleeping and restroom facilities.
- 303.59 EASEMENT:** A grant for the use of a defined tract of land for a specific purpose or purposes by a property owner to the public, another person, corporation, or legal entity.
- 303.60 FAMILY:** An individual person or two (2) or more persons related by blood, marriage or adoption, living together in a dwelling unit.
- 303.61 FARM:** A crop production, livestock production or other similar enterprise containing twenty (20) acres or more of land from which one thousand dollars (\$1,000) or more of crop or meat products are produced each year.
- 303.62 FLOOD HAZARD AREA:** Any land which is subject to a one (1) percent or greater chance of flooding in any given year.
- 303.63 FLOOR:** A level or story in a building.
- 303.64 FLOOR AREA:** The sum of the gross horizontal areas of the one or more floors in a building.
- 303.65 FLOOR AREA RATIO:** The total floor area of a building divided by the lot area on which the subject building or buildings is/are located.
- 303.66 FRONTAGE (LOT):** The length of the real property abutting one side of a street, measured along the right of-way line or other dividing line between the real property and the street.
- 303.67 GROUP HOME:** A residential facility which is operated under the auspices of an organization which is responsible for providing administration, direction and control for the home which is designed to provide twenty-four (24) hour care for persons who are unrelated by blood, marriage, adoption or guardianship while receiving therapy, training, education, counseling or other service for purposes of adaptation to living independently as possible. A Group Home shall be classified by number of residents as follows:
- Group Home (Small):** A dwelling designed to accommodate not more than five (5) persons constructed in compliance with or modified to comply with the R3 residential standard as defined by the International Building Code and shall comply with all parking, yard and other zoning standards the same as a single-family dwelling.
- Group Home (Medium):** A facility designed to house between six (6) and sixteen (16) persons constructed in compliance with or modified to comply with the R4 residential standard as defined by the International Building Code and shall comply with all parking, yard and other zoning standards the same as a multi-family dwelling.
- Group Home (Large):** A facility designed to house more than sixteen (16) persons constructed in compliance with or modified to comply with the institutional standard as defined by the International Building Code and shall comply with all other parking, yard and other zoning standards the same as a multi-family dwelling.
- 303.68 HEIGHT (BUILDING):** The vertical dimension measured from the average elevation of the finished grade at the front building line to the highest point of a building, excluding chimneys, antennae and similar appurtenances.
- 303.69 HEIGHT (STRUCTURE):** The vertical dimension measured from the average elevation of the finished grade at the base of the structure to the highest point of the structure.

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- 303.70 HOME OCCUPATION / HOME BASED BUSINESS:** A business use conducted within a dwelling or building accessory to such dwelling, where such business use is conducted primarily by a person or persons residing in such dwelling, which is clearly incidental and secondary to the residential occupancy of the dwelling, which does not change the character thereof, and complies with the standards for home occupations set forth in Section 515 of this Ordinance.
- 303.71 INCOMPATIBLE USE:** A use of land unsuitable for direct association with abutting and/or surrounding uses of land because of inconsistency with the intent of the applicable zoning district, because the use exhibits characteristics which would negatively impact abutting and/or surrounding uses with respect to the use, value and enjoyment of such abutting and/or surrounding property.
- 303.72 INDUSTRIAL USE:** A use, other than an agricultural or commercial use, in which products or goods are manufactured from raw materials by hand or by machines
- 303.73 INTENSIVE ANIMAL FEEDING USE:** The feeding of more than three hundred (300) animal at any one time in partial or total earthen pens or lots which are used for confinement of animals where manure is or may be in contact with the earth. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the one-time animal capacity of such use to the Zoning Administrator. In the event of any dispute over the capacity of animals, such determination shall be by actual counting of the number of animal capacity units by the Zoning Administrator or other duly appointed official at the time of such dispute. Waste handling facilities, as defined in Section 303.133 of this Ordinance, associated with any intensive animal feeding use, shall be considered a separate waste handling facility use and shall be subject to the requirements of this Ordinance.
- 303.74 JUNK YARD:** See Section 303.105 SALVAGE YARD.
- 303.75 KENNEL:** Any premise in which more than four (4) dogs, cats, or other domesticated or wild animals, excluding domestic livestock, over six (6) months of age, are kept, bred, boarded, trained, groomed, sheltered or otherwise maintained on the premises.
- 303.76 LANDFILL:** A waste disposal site, employing an engineered method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting and applying cover material over all exposed waste, designed in accordance with the requirements of the Nebraska Department of Environmental Quality and licensed or permitted by said Department.
- 303.77 LANDSCAPE BUFFER:** A maintained land area in the front yard of a lot, developed in accordance with the landscape buffer depth requirements of each applicable zoning district set forth in this Ordinance, of which a minimum of fifty (50) percent shall be covered by any combination of living landscape material including trees, shrubs, living ground cover, or other living materials other than turf grasses, at the time of planting. The remaining fifty (50) percent of the area shall be covered by turf grasses or other landscape materials, living or non-living.
- 303.78 LANDSCAPE SCREEN:** Any fence, wall, hedge, shrubs or trees and other customary landscape materials or combination thereof, developed in accordance with the requirements of each applicable zoning district set forth in this Ordinance, which effectively provide a solid, dense and opaque mass which prohibits view from abutting property, absorbs sound and provides site delineation at all times throughout the year. Customary landscape materials shall not include vehicle bodies, truck trailers or other similar items.
- 303.79 LOADING AREA:** Space on a premises, which is logically and conveniently located for delivery or pick-up of raw materials, supplies or products and which is scaled to the delivery vehicles expected to be used and accessible to such vehicles when required off-street parking areas are filled with vehicles. In the C-2, Central Business Zoning District, an alley may constitute the required loading area.

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

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

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



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

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

303.85 LOT, INTERIOR: A lot, other than a corner lot with only one (1) frontage on a street, indicated as “B” in the above diagram.

303.86 LOT OF RECORD: A lot which is part of a subdivision plat or lot, plot or parcel described by metes and bounds which was recorded in the office of the Registrar of Deeds of Holt County, Nebraska as of the effective date of enactment of this Ordinance.

303.87 LOT, REVERSED FRONTAGE: A lot on which frontage is at right angles or approximately right angles (interior angles less than one hundred thirty five (135) degrees) to the general lot pattern in the area, indicated as “D” in the above diagram. A reversed frontage lot may be a corner lot, indicated as “AD” in the above diagram, an interior lot, indicated as BD in the above diagram, or a through lot, indicated as CD in the above diagram.

303.88 LOT, THROUGH: A lot, other than a corner lot with frontage on more than one (1) street, indicated as “C” in the above diagram.

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

303.90 MANUFACTURED HOME: A factory-built structure, which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et. Seq. promulgated by the United States Department of

Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes 1943 which bears the seal of the Nebraska Department of Health or successor thereto and which complies with the following minimum standards:

1. a minimum floor area of nine hundred (900) square feet,
2. a minimum exterior width of eighteen (18) feet,
3. a minimum roof pitch of two and one-half (2 ½) inches of rise per each twelve (12) inches of horizontal run,
4. exterior material shall be of a color, material, and scale comparable with existing residential site built, single-family construction,
5. a non-reflective roof of material which is or simulates asphalt or wood shingles, tile or rock,
6. all wheels, axles, transporting lights and removable towing apparatus have been removed
7. is placed on and permanently attached to a foundation of the same construction as required for site-built homes,
8. is permanently connected to public utilities in the same manner required for site-built homes.

- 303.91 MOBILE HOME:** A detached, single or two-family dwelling, which was originally designed for long-term human habitation, which was constructed and fabricated into a complete unit at a factory, which is capable of being transported to a location for use on its own chassis and wheels, which is identified by model number and serial number by its manufacturer, and which is designed primarily for placement on a non-permanent foundation, but which does not comply with the definition of Section 303.90, MANUFACTURED HOME.
- 303.92 MOBILE HOME PARK / COURT:** Any parcel or contiguous parcels of land designated, maintained, used or intended to be used for the placement of two (2) or more mobile homes where such homes are connected to public and/or semi-public utilities and used for living or sleeping purposes, whether or not a charge is made for location of such homes on such parcel or contiguous parcels of land.
- 303.93 MOBILE HOME SUBDIVISION:** An area of land which has been subdivided for the sale of two (2) or more lots for the purpose of placing a mobile home on such lots with such mobile homes to be used for living or sleeping purposes.
- 303.94 MODULAR HOME:** A manufactured housing unit, as defined in Section 71-1557 of the Nebraska Revised Statutes 1943, which bears the seal of the Nebraska Department of Health or its successor agency.
- 303.95 NON-CONFORMING LOT OF RECORD:** A lawfully existing lot in existence, as evidenced by recordation of such lot in the Holt County Registrar of Deeds office as of the effective date of this Ordinance, which does not comply with the minimum lot area, width and other lot standards established in the various zoning districts created by this Ordinance.
- 303.96 NON-CONFORMING STRUCTURE:** A building or other structure, legally existing on the date of enactment of this Ordinance or amendment thereto, which does not comply with the minimum lot area, lot coverage, height, yard, or other applicable regulation of this Ordinance other than use of such building or structure.
- 303.97 NON-CONFORMING USE:** Any use of a building, structure, or land, legally existing on the date of enactment of this Ordinance or amendment thereto, which does not conform to the regulations of the zoning district in which it is located.
- 303.98 PARKING SPACE, OFF-STREET:** An area, open or closed, which is sufficient in size to permit the parking of one (1) vehicle, together with a driveway connecting said parking space to a street or road to permit ingress and egress by said vehicle.
- 303.99 PERMANENT FOUNDATION:** The substructure of a structure to which the structure is permanently attached which provides a permanent support for said structure around its entire perimeter and at points within its perimeter where needed.
- 303.100 PREMISES:** The land area containing a land use, which is contiguous with and under the same ownership as the land use.
- 303.101 PRINCIPAL BUILDING:** A building in which the primary use of the lot, tract or parcel of land is situated.

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- 303.102 PRIVATE STREET:** A privately owned, open and unoccupied space other than a public street or alley which is reserved as the principal means of vehicular access to lots or parcels abutting such space and which is developed, improved and approved in accordance with the requirements for such spaces established by the City of O'Neill, Nebraska.
- 303.103 PUBLIC USE AREA:** An area of land or water, whether publicly or privately owned, which is designed for and used by ten (10) or more unrelated persons on at least a quarterly basis for recreation, education, communication, worship, meetings or other legal purpose, including public parks, public water areas, public game refuges, fish hatcheries, publicly or privately owned meeting halls, historic sites and similar areas, provided that a public use area shall not be construed to include any rights-of-way for streets or roadways, hiking, biking or other trails, or privately owned land used for hunting and/or fishing.
- 303.104 RECREATIONAL VEHICLE:** A temporary dwelling for travel, recreation and vacation use including travel trailers, camping trailers, pickup campers, motor coaches, camp cars, tent trailers, boats or any other vehicular portable structure. A recreational vehicle shall not be considered to be a dwelling unit.
- 303.105 RESIDENTIAL USE:** A land use wherein one or more persons resides in a building containing one room or combination of rooms which are used for living, cooking, sleeping purposes.
- 303.106 SALVAGE YARD:** Any lot, parcel or tract of land or portion thereof used for the purpose of dismantling of machinery, equipment or vehicles or for the storage or keeping for sale of parts and equipment resulting from such dismantling, wrecking or other method of salvaging of such items, or for the storage or keeping of scrap metals and other scrap or waste materials, provided that the storage of machinery, equipment or vehicles in entirely enclosed buildings shall not be considered a salvage yard.
- 303.107 SETBACK LINE:** A line defined by connecting two (2) points, each measured from the front, side or rear lot line which establishes the interior boundary of the front, side or rear yard on a lot. For purposes of this Ordinance, a front setback line shall be determined by measuring from the existing right-of-way line of the abutting street or the proposed right-of-way width established for the classification of the abutting street as set forth in the City's Major Street Plan of current adoption, whichever is greater.
- 303.108 SIGN:** As defined in Section 521 of this Ordinance.
- 303.109 SIGN, BILLBOARD:** As defined in Section 521 of this Ordinance.
- 303.110 SIGN, BUSINESS:** As defined in Section 521 of this Ordinance.
111. **SIGN FACING:** As defined in Section 521 of this Ordinance.
112. **SIGN, FREE-STANDING:** As defined in Section 521 of this Ordinance.
113. **SIGN, INCIDENTAL:** As defined in Section 521 of this Ordinance.
- 303.114 SIGN, MONUMENTAL:** As defined in Section 521 of this Ordinance.
- 303.115 SIGN, PROJECTING:** As defined in Section 521 of this Ordinance.
- 303.116 SIGN STRUCTURE:** As defined in Section 521 of this Ordinance.
- 303.117 SIGN SURFACE:** As defined in Section 521 of this Ordinance.
- 303.118 SOLID MANURE:** Waste produced by living cattle, dairy cattle, sheep and other ruminants and horses which contains not less than twelve percent (12%) solids by weight and waste produced by living swine, poultry or other non-ruminant animals which contains not less than twenty five percent (25%) solids by weight.
- 303.119 SOLID WASTE:** Any garbage, refuse, discarded material including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, residential or other use, but excluding any animal

waste, animal waste water or any waste from a waste handling facility, as defined in Section 303.133 of this Ordinance.

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

303.121 SPECIFIED SEXUAL ACTIVITIES: 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, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
- C. Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s)
- E. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
- F. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal or human being; or
- G. Human excretion, urination, menstruation, vaginal or anal irrigation.

303.122 STORAGE, PERMANENT: The presence of any regulated item not stored in an entirely enclosed building for a period of ten (10) or more consecutive days. A mobile home, as defined herein, shall not be considered an enclosed building for storage.

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

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

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

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

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

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

303.129 TOWNHOUSE: One of a group or row of not less than three (3) nor more than twelve (12) attached, single family dwelling units designed and constructed as a single structure facing upon a street in which the individual dwelling units may or may not be owned separately.

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

303.131 VARIANCE: A relaxation of the requirements of this Ordinance where such relaxation of the requirements

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

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

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

303.134 WASTE HANDLING FACILITY: Any facility including:

- A. any and all structures, combination of structures, under-floor pits, holding ponds, waste or manure catch basins, lots or pens where animal waste is accumulated, diversion terraces, liquid manure storage pits, lagoons, manure or other waste composting sites or other facility used to hold, store, process, digest, control or otherwise dispose of dead animals, animal waste, animal waste water or other waste materials, other than solid waste as defined in Section 303.118 of this Ordinance, generated by any industrial use, any municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use, as defined in Section 303.43 and 303.73 of this Ordinance, whether on the same or different premises as the use generating said waste; and
- B. any above ground pipelines for transporting of wastes other than solid wastes, as defined in Section 303.118 of this Ordinance, any irrigation or other device, equipment, or mechanism used to transport and/or land apply or otherwise dispose of such wastes, whether on the same or different premises than the industrial use, municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use, as defined in Section 303.43 and 303.73 of this Ordinance; and
- C. any land on which animal waste, animal waste water or other waste, excluding solid waste as defined in Section 303.118 of this Ordinance, generated by any industrial use, municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use, as defined in Section 303.43 and 303.73 of this Ordinance, is applied; and
- D. any facilities, apparatus, or mechanism used to ventilate, exhaust, process, or treat gases, odor, dust, smoke or other waste product emanating from any building or structure associated with any, industrial use, municipal waste treatment facility or other use, including any confined or intensive animal feeding use, as defined in Section 303.43 and 303.73 of this Ordinance.

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

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

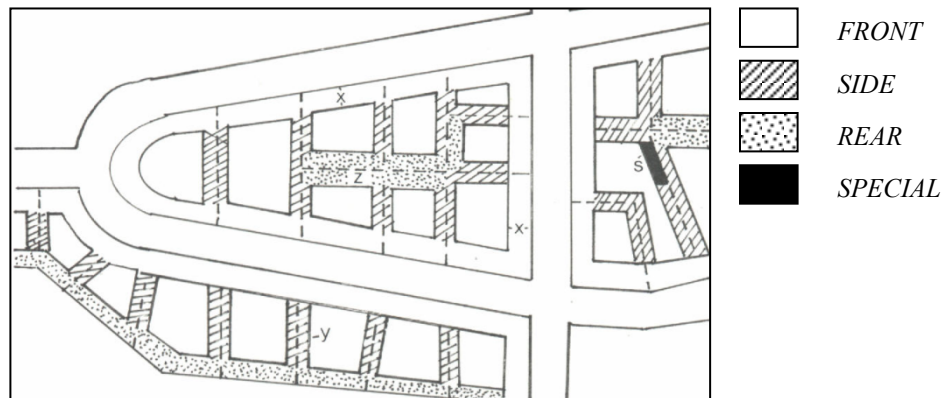
303.137 YARD, REAR (SETBACK): A yard extending across the entire width of the lot between the rear lot line

and the nearest part of the primary building. (Refer to “Z” on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

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

303.139 YARD, SPECIAL (SETBACK): A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” or “rear yard” clearly applies. In such cases, the Zoning Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the zoning district, determining which shall apply by the relationship of the portion of the lot on which the yard is to be located to the adjoining lot or lots with due regard to the orientation and location of buildings, structures and buildable areas thereon. (Refer to “S” on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

Location and Measurements of Yards On Lots



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

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

303.142 ZONING ADMINISTRATOR: The person or persons authorized and empowered by the City of O'Neill, Nebraska to administer and enforce the requirements of this Ordinance.

303.143 ZONED AREA: The area included in the various zoning districts established by this Ordinance as indicated on the Official Zoning Map of the City of O'Neill, Nebraska.

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

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ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

SECTION 401 PLANNING COMMISSION RECOMMENDATIONS

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

SECTION 402 ZONING DISTRICTS CREATED

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

| | |
|-------|---------------------------------|
| AG | Agricultural District |
| R | Residential District |
| R - R | Residential Ranchette District |
| C - 1 | Central Business District |
| C - 2 | General Commercial District |
| I - 1 | Light Industrial District |
| I - 2 | Industrial District |
| FHO | Flood Hazard Overlay District |
| AHO | Airport Hazard Overlay District |

SECTION 403 OFFICIAL ZONING MAP

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

SECTION 404 OFFICIAL ZONING MAP CHANGES

- 404.01** If, in accordance with the provisions of this Ordinance, changes are made in the zoning district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the change or amendment has been approved by the City Council with an entry being made on the Official Zoning Map as follows: "On ____ (date) ____, by official action of the City Council, the following change(s) was / were made in the Official Zoning Map", which entry shall be signed by the Mayor and attested by the signature of the City Clerk. No amendment to this Ordinance, which involves matters portrayed on the Official Zoning Map, shall be effective until after such change and entry have been made on said Official Zoning Map.
- 404.02** No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and shall be punishable as provided in Section 1102 of this Ordinance.
- 404.03** Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map, which shall be located in the Office of the City Clerk, shall be the final authority as to the current zoning status of all areas within the City of O'Neill, Nebraska and its jurisdictional area, as defined in Section 102 of this Ordinance.

SECTION 405 OFFICAL ZONING MAP REPLACEMENT

- 405.01** In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by Ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. 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.
- 405.02** Each new Official Zoning Map shall be identified by the signature of the Mayor attested by the signature of the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted ___(date)___ as part of Ordinance No. _____ of the City of O'Neill, Nebraska."
- 405.03** Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant part thereof remaining, shall be preserved together with all available related amendment records.

SECTION 406 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

- 406.01** Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be interpreted as following such centerlines.
- 406.02** Boundaries indicated as following platted lot lines shall be interpreted as following such platted lot lines.
- 406.03** Boundaries indicated as approximately following the corporate limit lines of the City shall be interpreted as following such corporate limit lines.
- 406.04** Boundaries indicated as approximately following railroad lines shall be interpreted as following a line midway between the main railroad tracks.
- 406.05** Boundaries indicated as following the shore lines of a river, creek, canal, lake or other body of water shall be interpreted as following such shore lines and boundaries indicated as approximately following the centerline of a river, creek, canal, lake or other body of water shall be interpreted as following such centerline. In either instance, in the event of a change in the location of the shore line or centerline of any such body of water, the boundaries shall be interpreted as moving with such shore lines or centerlines.
- 406.06** Boundaries indicated as parallel to or extensions of features indicated in Subsections 406.01 through 406.05 above shall be so interpreted and distances not specifically indicated on the Official Zoning Map shall be determined by the scale of said Official Zoning Map.
- 406.07** Where a zoning district boundary line divides a lot, which was of single ownership at the time of adoption of this Ordinance, the Board of Zoning Adjustment may permit the extension of the zoning district boundary for either portion of the lot. ~~not to exceed fifty (50) feet beyond the location of the boundary line indicated on the Official Zoning Map, into the remaining portion of the lot.~~
- 406.08** In circumstances not covered by Subsections 406.01 through 406.07 above, or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Zoning Adjustment shall interpret the zoning district boundary.

SECTION 407 ANNEXATION RULE

Annexation of land to the City shall not affect the zoning applied to such annexed land prior to such annexation, except where annexation of land occurs which may result in expansion of the one (1) mile jurisdictional planning and zoning boundaries of the City as may be indicated on an amended Official Zoning Map, in which case the additional land area included within such jurisdictional area shall be zoned in a manner consistent with the Comprehensive Plan of the City and the Official Zoning Map shall be modified in a manner consistent with such revised boundaries and zoning.

SECTION 408 DISTRICT REGULATIONS

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

SECTION 409 AG AGRICULTURAL DISTRICT

409.01 INTENT:

This district is established for the purposes of: 1) protecting and preserving productive agricultural land and to avoid, as much as possible, agricultural versus urban land use conflicts in the area surrounding the City by discouraging leap-frog urban development, 2) avoiding urban and suburban developments which could result in demands for improvements to existing roads and higher levels of public services and 3) avoiding the development of agricultural uses which would be incompatible with the existing and proposed urban uses within and around the City.

2. **OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:** The following uses and structures, excluding any buildings, shall be allowable uses outright and shall not require a written ~~building~~ zoning permit or certificate of zoning compliance. Construction of any building shall require a zoning permit.
1. Agricultural uses, as defined in Subsection 303.12 of this Ordinance, but excluding any confined or intensive animal feeding uses any associated waste handling facilities, as defined in Sections 303.43, 303.73 and 303.134 of this Ordinance, and excluding livestock auction barns or yards and commercial grain storage, grain elevators, grain milling or bulk fuel or fertilizer facilities not subordinate to the agricultural crop and/or livestock activities on the premises.
 2. Non-commercial grain, hay and produce storage facilities.
 3. Forestry, tree farms, plant nurseries and orchards, including facilities for the storage and sale of produce grown on the premises, provided that any buildings associated with such storage or sale of produce, if other than a moveable roadside stand, shall require a zoning permit.
 4. Day care and child care uses, when conducted within a residential dwelling unit by the occupant(s) of said dwelling unit.
 5. Irrigation wells, pivot and other irrigation systems and erosion, runoff control and flood control structures.
 6. Parks, playgrounds, wildlife preserves, conservation areas, lakes, ponds and similar open space uses.
 7. Cemeteries.
 8. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.
 9. Land application of:
 - A. fully composted animal waste, as defined in Section 303.16 of this Resolution, to the surface of the land at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality,
 - B. solid manure, as defined in Section 303.118 of this Resolution, to the surface of the land at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality when there is no stockpiling of such manure on any premises where such manure is to be applied,
 - C. liquid or slurry animal waste injected into the soil at rates at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality.

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- D. liquid animal waste applied to the surface of the land at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality, provided that when a dwelling unit not of the same ownership as the land on which such waste is to be applied or a church or school is located within one-fourth (1/4) mile of the boundary on which the waste is applied the total time such application occurs shall not exceed 360 hours in a calendar year per parcel, unless the generator of the waste can document that no other options exist with regard to alternative parcels or timing with which the generator of the waste can comply with the discharge requirements established by the Nebraska Department of Environmental Quality, in which case, the Zoning Administrator may approve a permit for such additional time for application to the subject parcel as is estimated to be required to comply with the discharge requirements of the Nebraska Department of Environmental Quality
10. Stockpiling of animal waste or manure or municipal sewage or other sludge on any parcel of land where such waste is to be applied to the land contained within such parcel, provided such stockpiling shall meet all of the following conditions:
- A. The amount of solid manure stockpiled on any parcel shall not exceed the amount of waste which can be applied on such parcel at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality for a calendar year.
 - B. Any manure or sludge stockpile shall be located at least one-fourth (1/4) mile from the nearest wall of any church, school or residential dwelling unit not of the same ownership as the parcel on which the stockpile is to be placed or to the nearest boundary of any public use area unless the owner of such church, school, residential dwelling or public use area shall grant permission in writing for a stockpile to be located at a closer distance.

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

- 1. Single-family residential dwellings, including manufactured homes meeting the definition for such homes and the performance standards for such homes as set forth in Section 303.90 of this Ordinance, but excluding manufactured or mobile homes which do not meet said definition and performance standards, provided that the following restrictions shall apply:
 - A. The lot on which such dwelling unit is to be located shall front on or have access to an existing public City, County or State roadway other than a roadway, classified by the Holt County Board of Commissioners, as a minimum maintenance road, provided that if a dwelling unit is to be located on a lot which fronts on or has access only to a road classified as a minimum maintenance road, it shall be the responsibility of the owner of such dwelling unit to improve such road or that portion thereof which would connect such lot to the nearest public roadway other than a minimum maintenance road to County road standards prior to the Board of Commissioners accepting such road or portion thereof for County maintenance.
- 2. Churches, temples and similar religious uses, excluding buildings used all or in part for the general education of youth where the education curriculum is similar to that of a public school.
- 3. Vineyards and associated wineries.

409.04 PERMITTED ACCESSORY USES AND STRUCTURES: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

- 1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures shall require the issuance of a zoning permit and / or certificate of zoning compliance.

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2. Home occupations, in accordance with Section 515 of this Ordinance. Issuance of a zoning permit or certificate of zoning compliance shall be required.
 3. Moveable roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.
 4. Radio and television antennae and wind energy towers, less than thirty five (35) feet in height, and television satellite receiving antennae (satellite dishes), provided that satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard. Such antennae or towers shall not require the issuance of a zoning permit.
 5. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 521 of this Ordinance. All signs shall require issuance of a zoning permit.

409.05 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Public schools, private schools and schools affiliated with a church or religion,
2. Public or private golf courses and driving ranges-
3. Recreational vehicle parks and campgrounds.
4. Public and private utility communications equipment buildings, storage or maintenance yards, buildings or administrative offices for such utilities and communications, micro-wave, cellular communications or other towers, excluding wind energy towers, in excess of thirty five (35) feet in height,
5. Municipal waste handling facilities, sanitary landfills and recycling or waste composting centers,
6. Rock, sand, gravel or other mineral extraction or mineral processing uses, provided any application for such use shall include an acceptable and closure plan for phased and closure of each portion of the extraction area when extraction is completed and written indication by the owner(s) of such use that failure to completely implement such plan within one (1) year of closure of the use shall be deemed a violation of this Resolution.
7. Small Wind Energy towers, as defined in Section 527.02 or this Ordinance which are in excess of thirty five (35) in height and Commercial Wind Energy Systems and installations, as defined in Section 527.05, Paragraph 2 of this Ordinance, both in accordance with the requirements of Section 527 of this Ordinance.
8. Airports, aircraft landing strips and heliports,
9. Agricultural service establishments engaged in providing horticultural or animal husbandry products or services to area agricultural product producers, agricultural equipment repair services, crop seed and commercial grain storage and processing facilities and similar agricultural service uses,
10. Commercial grain elevators and grain storage facilities, ethanol production plants, livestock auction barns and livestock buying stations, fuel and fertilizer bulk plants, provided that such any such uses which produce noticeable odor and/or have explosion or release of hazardous chemicals and gas potential shall not be located closer than one-fourth (1/4) mile to any residential dwelling, church or school.
11. Kennels, as defined in Section 303.75 of this Resolution, subject to the following limitations and requirements:
 - A. Any kennel shall be located at least one-half (1/2) mile from any undeveloped lot of record less than twenty (20) acres in area, school, church, public use area or dwelling unit not of the same ownership and on the same premises as the kennel. Measurement of this distance shall be from the point of the

kennel or kennel runs nearest such school, church, public use area or dwelling unit to the nearest wall of a school, church, or dwelling unit or the nearest boundary of a lot or record less than twenty (20) acres in area or public use area. Exceptions to the minimum separation distance may be authorized by conditional use where the type of animals kenneled will present no or very limited noise or other impacts on adjoining properties.

- B. Disposal of dead animals, animal waste, bedding and other kennel waste material shall be in accordance with the requirements of the Nebraska Department of Agriculture and applicable requirements of Title 124 of the Nebraska Department of Environmental Quality.
 - C. The owner of any kennel shall have a license / permit for a kennel as required by the Nebraska Department of Agriculture.
 - D. In authorizing any kennel, the City Council may, to avoid or limit impacts on neighboring properties, establish a limit regarding the total number of animals which may be kenneled at any one time and establish any other condition appropriate to protecting neighboring properties from undue impacts.
12. Other uses and structures determined by the Commission to be comparable with the above stated conditional uses and consistent with the intent statement of this zoning district.

409.06 PROHIBITED USES AND STRUCTURES:

All other uses and structures, which are not specifically allowable, permitted or authorized as conditional uses shall be prohibited in this zoning district.

409.07 MINIMUM LOT AREA:

- 1. The minimum lot area for a single-family dwelling unit, manufactured home or modular home or other allowable or permitted use where on-site sewage disposal is proposed shall be two (2) acres, provided that a larger lot area may be required by the standards and regulations of Title 124 of the Nebraska Department of Environmental Quality with regard to soil percolation rates, slope, depth to water table or other requirement of said Title 124 requires the use of a lagoon or other type of waste disposal facility, in which case the lot shall be sized to comply with the requirements of said Title 124.
- 2. The minimum lot area for any lot on which sewage disposal facilities are not needed shall be one-half (1/2) acre.
- 3. The minimum lot area for uses identified as conditional uses in this District shall be the lot area appropriate for such uses, as determined by the City Council in granting of any such use in accordance with Article 10 of this Ordinance, provided that:
 - A. Any lot on which there is to be an on-site sewage disposal system shall not be less than two (2) acres in area, provided that a larger lot may be required if the standards and regulations of Title 124 of the Nebraska Department of Environmental Quality with regard to soil percolation rates, slope, depth to water table or other requirement of said Title 124 requires the use of a lagoon or other type of waste disposal facility, in which case the lot shall be sized to comply with the requirements of said Title 124.
 - B. Any lot on which sewage disposal facilities are not needed shall not be less than one-half (1/2) acre in area.

409.08 MINIMUM LOT WIDTH AND FRONTAGE:

The minimum lot width, measured at the minimum required front setback line, and the minimum lot frontage, measured at the front lot (right-of-way) line, for uses in this district shall be as follows:

- 1. For lots utilizing on-site sewage disposal systems, the minimum lot width shall be one hundred fifty (150) feet, provided that the lot width to lot depth ratio shall not exceed one (1) to four (4). The minimum lot frontage, including any deeded access or access easement shall be fifty (50) feet, except that the minimum

lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the City Council in granting of any such use in accordance with Article 7 of this Ordinance, provided that no lot shall have a width less than one hundred fifty (150) feet and a minimum frontage less than fifty (50) feet.

2. For lots on which sewage disposal systems are not needed, the minimum lot width shall be one hundred (100) feet, provided that the lot width to lot depth ratio shall not exceed one (1) to four (4). The minimum lot frontage, including any deeded access or access easement shall be fifty (50) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the City Council in granting of any such use in accordance with Article 7 of this Ordinance, provided that no lot shall have a width less than one hundred (100) feet and a minimum frontage less than fifty (50) feet.

409.09 MINIMUM YARD REQUIREMENTS:

The minimum yards or setbacks of any building from a property line shall be as follows:

1. Front Yard - Thirty (30) feet from the right-of-way of a county road, private roadway or access easement or State or Federal highway.

For a grain bin or building used for grain storage which requires filling by use of a portable auger, elevator or conveyor or requires overhead probing of stored grain, the minimum setback from any existing primary voltage electric power distribution line owned and maintained by a public utility shall be equal to the height of the highest filling or probing opening on such bin or building plus eighteen (18) feet or the distance prescribed in Section 234 of the latest published edition of the National Electrical Safety Code, whichever is greater.

2. Side Yard - Each side yard shall be ten (10) feet, provided that where any use other than a single-family dwelling unit abuts a residential zoning district the minimum side yard on the side adjoining such zoning district shall be fifty (50) feet.
3. Rear Yard - Twenty (20) feet, provided that where any use other than a single-family dwelling unit abuts a residential zoning district the minimum rear yard shall be fifty (50) feet.

409.10 MAXIMUM HEIGHT:

No limitation, except for any applicable height restriction of the Airport Hazard Zoning District regulations. *(See Section 419 of this Ordinance.)*

409.11 MAXIMUM LOT COVERAGE:

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

409.12 OFF-STREET PARKING AND LOADING AREAS:

The minimum number of off-street parking spaces and minimum loading areas required for each allowable, and permitted use and any authorized conditional use in this district shall be in accordance with the requirements of Sections 516 through 518 and 520 of this Ordinance.

SECTION 410 R RESIDENTIAL DISTRICT

410.01 INTENT:

This district is established for the purpose of providing areas within and around the City for a wide range of residential uses, to encourage the development of alternative housing styles which make more efficient use of the land and public infrastructure and create more usable open spaces while maintaining building height and building mass compatibility of such alternative housing styles with single-family detached housing and for the purpose of protecting such residential areas from development of incompatible land uses in order to promote and maintain a stable residential environment.

410.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above and below ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.
2. Raising of crops, pasturing of livestock (in accordance with applicable City ordinances), but excluding the feeding of any type of livestock in buildings or pens and excluding any buildings for agricultural equipment storage, grain storage bins or buildings, buildings for the raising or management of livestock or other building which supports agricultural operations on the premises,

410.03 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Single-family, detached and attached (zero lot line) dwellings, two-family (duplex) dwellings, multi-family dwellings, townhouses, and manufactured homes meeting the definition for such homes and the performance standards for such homes as set forth in Subsection 303.90 of this Ordinance, but excluding manufactured homes which do not meet said definition and performance standards,
2. Small and Medium Group Homes,
3. Nursing and convalescent homes, assisted living homes and hospice centers,
4. Churches, temples and similar religious uses, excluding buildings used all or in part as schools or for (non-religious) education of youth where the education curriculum is similar to that of a public school,
5. Horticultural uses customary to urban residential uses,
6. Temporary uses in accordance with Section 523 of this Ordinance,

410.04 PERMITTED ACCESSORY USES AND STRUCTURES:

1. Garages, carports, patios, outbuildings for storage and other similar structures customarily associated with and incidental to the primary use of the premises, provided such accessory uses and buildings shall be subordinate in size and height to the principle building on the premises, provided that such accessory buildings and structures shall not include buildings and structures with canvas, plastic or other non-permanent material used for a roof or walls, provided that such accessory buildings shall not include any building or structure with unpainted galvanized steel for a roof or exterior walls, and further provided that the exterior of said accessory building shall be of a color, material, and scale comparable with the existing residential structure on the premises and residential structures on lots abutting the premises. Such uses, buildings or structures shall require the issuance of a zoning permit or certificate of zoning compliance.
2. Home occupations, in accordance with Section 515 of this Ordinance. Issuance of a zoning permit or certificate of zoning compliance shall be required.

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3. Moveable roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.
 4. Radio and television antennae and wind energy towers, less than thirty five (35) feet in height, and television satellite receiving antennae (satellite dishes), provided that satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard. Such antennae and towers shall not require the issuance of a zoning permit.
 5. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 521 of this Ordinance. All signs shall require issuance of a zoning permit.

410.05 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Parks, playgrounds, golf courses and other open space recreation uses, excluding miniature golf facilities and water parks,
2. Public or private schools, colleges, and similar education facilities,
3. Public uses of an administrative, service or cultural nature including libraries, museums, fire stations, administrative offices and similar uses,
4. Public and private utility communications equipment buildings or administrative offices for such utilities and communications, micro-wave, cellular communications or other towers in excess of thirty five (35) feet in height, excluding wind energy towers,
5. Small Wind Energy towers, as defined in Section 527 or this Ordinance which are in excess of thirty five (35) in height in accordance with the requirements of Section 527 of this Ordinance.
6. Hospitals with or without heliports.
7. Child day care services, provided such day care service shall be limited to not more than ten (10) children, including children of the provider, shall be limited to one provider who shall be the occupant of the residential dwelling in which the service is provided and the provider shall maintain a license from the Nebraska Health and Human Services Department.
8. Bed and Breakfast uses,
9. Mobile home park, court or subdivision, developed in accordance with the standards set forth in Section 524 of this Ordinance,
10. Agricultural buildings, non-commercial grain storage bins and similar structures designed to support existing agricultural operations,
11. Other uses, determined by the Planning Commission and City Council, to be comparable with the other uses listed as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district. Commercial uses of any kind which are not specifically listed in this subsection, other than uses which meet the requirements of a home based business set forth in Section 515 of this Ordinance shall not be authorized by conditional use and shall be specifically prohibited.

410.06 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

410.07 MINIMUM LOT AREA:

27

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1. The minimum lot area for uses listed in Section 410.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.
 2. The minimum lot area for conditional uses listed in Section 410.05 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot area shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

410.08 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width and frontage for uses listed in Section 410.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot width and frontage for conditional uses listed in Section 410.05 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot area shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

410.09 MINIMUM YARD REQUIREMENTS:

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

1. Front Yard - Fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway.

For developed areas, as defined in Subsection 303.49 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

2. Side Yard - For all uses, except accessory buildings, each side yard shall be a minimum of five (5) feet, provided that:
 - A. Where the side yard of any residential use abuts a commercial or industrial zoning district, the side yard abutting such commercial or industrial zoning district shall be a minimum of thirty (30) feet.
 - B. Where any side yard of a townhouse or a two or more story multi-family residential use abuts a residential use other than another townhouse or two or more story multi-family use, the side yard abutting such non-townhouse or non-two or more story multi-family residential use shall be a minimum of thirty (30) feet.
 - C. Where any use, other than a residential use, which is permitted outright or by conditional use in this district, abuts a residentially zoned lot on the side, the minimum side yard on the side adjoining such lot shall be a minimum of thirty (30) feet.

For accessory buildings, the minimum side yard shall be two (2) feet from the side lot line to the nearest point of the accessory building, provided that any such accessory building shall comply with the following limitations:

- A. Accessory buildings shall not be placed on any recorded easement.
 - B. The total accessory building or buildings shall not cover more than thirty (30) percent of the rear yard.
 - C. The maximum height of any accessory building with a side yard setback of less than five (5) feet shall be limited to sixteen (16) feet.
3. Rear Yard - The minimum rear yard shall be twenty (20) feet, provided that where any use permitted outright or by conditional use in this district other than a single family detached or attached dwelling unit, a two-family dwelling unit or single story multi-family residential use, abuts a residentially zoned lot to the rear, the minimum rear yard shall be thirty (30) feet.

For accessory buildings, the minimum rear yard shall be two (2) feet from the rear lot line to the nearest point of the accessory building, provided that any such accessory buildings shall comply with the following restrictions:

- A. Accessory buildings shall not be placed on any recorded easement.
- B. The total accessory building or buildings shall not cover more than thirty (30) percent of the rear yard.
- C. The maximum height of any accessory building with a rear yard setback of less than five (5) feet shall be limited to sixteen (16) feet.

410.10 MAXIMUM HEIGHT:

The maximum height for any structure or building designed or used for human occupancy shall be fifty (50) feet and the maximum height for all other buildings and structures shall be unlimited except for any applicable height restriction of the Airport Hazard Zone District regulations and any limitations of height imposed on any authorized conditional use.

410.11 OFF-STREET PARKING AND LOADING:

The minimum number of off-street parking spaces and minimum loading areas required for each allowable, and permitted use and any authorized conditional use in this district shall be in accordance with the requirements of Sections 516 through 518 and 520 of this Ordinance.

411.01 INTENT: This district is established for the purpose of providing areas on the periphery of the City for lower density estate type residential uses and hobby farms where care, training and enjoyment of reasonable numbers of domestic livestock is proposed and to protect such uses from development of incompatible uses in order to promote and maintain a stable residential environment.

2. **LIMITATION ON APPLICATION OF THIS DISTRICT:** This district shall only be applied to parcels of land which contain four (4) or more acres in area.

411.03 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above and below ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.
2. Raising of crops, but excluding the pasturing or feeding of any type of livestock and excluding any buildings for agricultural equipment storage, grain storage bins or buildings, buildings for the raising or management of livestock or other building which supports agricultural operations on the premises,

4. **PERMITTED PRINCIPAL USES AND STRUCTURES:**

1. Single-family detached dwellings, including manufactured homes meeting the definition for such homes and the performance standards for such homes as set forth in Subsection 303.90 of this Ordinance, but excluding manufactured homes which do not meet said definition and performance standards,
2. Pasturing and feeding of livestock in accordance with the limitations set forth in Section 411.07 below.
3. Churches, temples and similar religious uses, excluding buildings used all or in part as schools or for (non-religious) education of youth where the education curriculum is similar to that of a public school,
4. Horticultural uses customary to urban residential uses,
5. Temporary uses in accordance with Section 523 of this Ordinance,

5. **PERMITTED ACCESSORY USES AND STRUCTURES:**

1. Garages, carports, patios, outbuildings for storage and other similar structures customary associated with and incidental to the allowable and permitted uses and authorized conditional uses. Such uses, buildings or structures shall require the issuance of a zoning permit and / or certificate of zoning compliance.
2. Home occupations, in accordance with Section 515 of this Ordinance. Issuance of a zoning permit or certificate of zoning compliance shall be required.
3. Moveable roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.
4. Radio and television antennae and wind energy towers less than thirty five (35) feet in height, and television satellite receiving antennae (satellite dishes), provided that satellite receiving antennae larger than Twenty Four (24) inches in diameter shall be located in the side or rear yard. Such antennae and towers shall not require the issuance of a zoning permit.

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5. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 521 of this Ordinance. All signs shall require issuance of a ~~building~~ zoning permit.

411.06 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Parks, playgrounds, golf courses and other open space recreation uses, excluding miniature golf facilities and water parks,
2. Public and private utility communications equipment buildings or administrative offices for such utilities, communications, micro-wave, cellular communications or other towers in excess of thirty five (35) feet in height, excluding wind energy towers.
3. Small Wind Energy towers, as defined in Section 527 or this Ordinance which are in excess of thirty five (35) in height in accordance with the requirements of Section 527 of this Ordinance.
4. Bed and Breakfast uses,
5. Care of other types of animals not allowable in Section 411.07 below,
6. Other uses, determined by the Planning Commission and City Council, to be comparable with the other uses listed as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

7. ALLOWABLE ANIMALS AND LIMITATIONS:

Domestic horses and cattle may be kept on land upon which this district is applied, provided such keeping of such animals shall comply with all of the following conditions and limitations:

1. Horses and cattle shall only be kept on any lot or parcel which is four (4) acres or larger in area,
2. A maximum of two (2) horses or cattle may be kept on any four (4) acre or larger lot or parcel, provided that any offspring from the two (2) allowable animals may be kept only until said offspring is weaned, a period which shall not exceed a period of eight (8) months from the date of birth of such offspring,
3. The confinement area for the allowable animals shall be at least three (3) acres in area and shall be located in the rear and / or side yard,
4. Only one (1) accessory building shall be allowed on each such parcel for stabling of such animals, storage of feed and storage of related supplies, tack and equipment. Such building shall not exceed five hundred (500) square feet in area, except that for each additional acre of land over four (4) acres an additional two hundred (200) square feet may be added . All bedding, feed, fodder, supplies, tack and equipment shall be stored inside said building.
5. Such building shall be constructed prior to the introduction of allowable animals to the premises,
6. Any such accessory building shall be located at least one hundred fifty (150) feet from the front property line, at least one hundred (100) feet from any residential dwelling not on the same premises as such accessory building and at least one hundred (100) feet from any non-Residential Ranchette Zoning District boundary,
7. Any such accessory building shall be located at least fifty (50) feet from any side or rear lot line.
8. Used bedding, manure and other animal waste shall be may be applied to the land on which the allowable animals are maintained, provided that any stockpiling or storage of any used bedding, manure or other

animal waste shall only occur inside the required accessory building and proper control of vermin and flies shall be used to prevent propagation of such vermin, flies and odor.

411.08 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

411.09 MINIMUM LOT AREA:

The minimum lot area for all uses in this district shall be four (4) acres.

411.10 MINIMUM LOT WIDTH AND FRONTAGE:

The minimum lot width for all uses in this district shall be two hundred (200) feet and the minimum lot frontage for all uses in this district shall be sixty six (66) feet.

411.11 MINIMUM YARD REQUIREMENTS:

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

1. Front Yard - Fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway.

For developed areas, as defined in Subsection 303.49 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

3. Side Yard - For all uses, except accessory buildings, each side yard shall be a minimum of five (5) feet, provided that:

- A. Where the side yard of any residential use abuts a commercial or industrial zoning district, the side yard abutting such commercial or industrial zoning district shall be a minimum of thirty (30) feet.
- B. Where any use, other than a residential use, which is permitted outright or by conditional use in this district, abuts a residentially zoned lot on the side, the minimum side yard on the side adjoining such lot shall be a minimum of thirty (30) feet.

For accessory buildings housing allowable animals the minimum side yard shall be as set forth in Section 411.07, Subsection 6 above. For other accessory buildings, the minimum side yard shall be two (2) feet from the side lot line to the nearest point of the accessory building, provided that any such accessory building shall comply with the following limitations:

- A. Accessory buildings shall not be placed on any recorded easement.
- B. The total accessory building or buildings shall not cover more than thirty (30) percent of the rear yard.
- C. The maximum height of any accessory building with a side yard setback of less than five (5) feet shall be limited to sixteen (16) feet.

3. Rear Yard - The minimum rear yard shall be twenty (20) feet, provided that where any use permitted by conditional use in this district abuts a residentially zoned lot to the rear, the minimum rear yard shall be thirty (30) feet.

For accessory buildings housing allowable animals the minimum side yard shall be as set forth in Section 411.07, Subsection 6 above. For other accessory buildings, the minimum rear yard shall be two (2) feet from the rear lot line to the nearest point of the accessory building, provided that any such accessory buildings shall comply with the following restrictions:

- A. Accessory buildings shall not be placed on any recorded easement.
- B. The total accessory building or buildings shall not cover more than thirty (30) percent of the rear yard.
- C. The maximum height of any accessory building with a rear yard setback of less than five (5) feet shall be limited to sixteen (16) feet.

411.12 MAXIMUM HEIGHT:

The maximum height for any structure or building designed or used for human occupancy shall be fifty (50) feet and the maximum height for all other buildings and structures shall be unlimited except for any applicable height restriction of the Airport Hazard Zone District regulations and any limitations of height imposed on any authorized conditional use.

411.13 OFF-STREET PARKING AND LOADING:

The minimum number of off-street parking spaces and minimum loading areas required for each allowable, and permitted use and any authorized conditional use in this district shall be in accordance with the requirements of Sections 516 through 518 and 520 of this Ordinance.

SECTION 413 C - 1 CENTRAL BUSINESS DISTRICT

413.01 INTENT:

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

413.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above and below ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.

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

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

16. Antique and craft stores,

17. Temporary uses in accordance with Section 523 of this Ordinance,

413.03 PERMITTED ACCESSORY USES AND STRUCTURES:

1. Drive-thru service facilities,
2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard or on the roof only,
3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 521 of this Ordinance,
4. Outdoor display of merchandise, provided such display shall not be interpreted as meaning the storage, stockpiling or warehousing of materials which are not immediately available for purchase,
5. Residential dwelling units and small and medium group homes on the second or higher in commercial buildings containing a commercial use or on any floor of a commercial building in existence as of the effective date of this Ordinance that is converted in whole or in part to residential use.
6. Accessory uses and structures customarily associated with and incidental to the principal uses.

413.04 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Automobile service stations,
2. Schools, colleges and similar private or public educational uses,
3. Recreational vehicle parks and campgrounds.
4. Other office, business and commercial service uses, determined by the Planning Commission and City Council, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.
5. Small Wind Energy towers, as defined in Section 527 or this Ordinance which are in excess of thirty five (35) in height in accordance with the requirements of Section 527 of this Ordinance.

413.05 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

413.06 MINIMUM LOT AREA:

No limitation

413.07 MINIMUM LOT WIDTH AND FRONTAGE:

No limitation

413.08 MINIMUM YARD REQUIREMENTS:

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

1. Front Yard - Zero (0) feet

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2. Side Yard - Zero (0) feet, except where the lot line abuts a residential zoning district the minimum side yard shall be twenty (20) feet and a landscape screen, as defined in Subsection 303.78 of this Ordinance shall be installed along the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.
 3. Rear Yard - Zero (0) feet, except where the lot line abuts a residential zoning district the minimum rear yard shall be twenty (20) feet and a landscape screen, as defined in Subsection 303.78 of this Ordinance shall be installed along the property line or within the rear yard. In determining the rear yard requirements such rear yard may be measured to the centerline of any abutting alley which is dedicated for public use.

413.09 MAXIMUM HEIGHT:

The maximum height for any structure or building shall be fifty (50) feet, except for any applicable height restriction of the Airport Hazard Zone District regulations.

413.10 MAXIMUM LOT COVERAGE:

No limitation

413.11 OFF-STREET PARKING AND LOADING AREAS:

The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 516 through 520 of this Ordinance.

SECTION 414 C - 2 GENERAL COMMERCIAL DISTRICT

414.01 INTENT:

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

414.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above and below ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.

414.03 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Uses permitted in the C-1 Central Business District, including the development of shopping centers and malls, but excluding adult establishments.
2. Sales, rental and display of automobiles, trucks, campers, recreational vehicles, manufactured homes, boats and agricultural equipment, provided that all servicing and maintenance shall be conducted entirely within enclosed buildings,
3. Automobile and tire service use, including auto or truck body repair uses when all repair work and related storage is conducted in completely enclosed buildings, but excluding the dismantling or salvaging of vehicles or the storage of damaged or inoperable vehicles,
4. Recreational vehicle parks and campgrounds,
5. Commercial recreational facilities such a miniature golf courses, golf driving ranges, drive-in theaters, riding stables, museums, bowling alleys and similar recreational uses,
6. Car and truck wash uses,
7. Special service uses such as model home displays and sales, building material sales, non-livestock auction rooms, plant nurseries, greenhouses, monument sales and similar special service uses,
8. Animal feed and crop and garden seed sales uses,
9. Raising of crops, pasturing of livestock (in accordance with any other applicable City ordinances) and other open space agricultural uses, but excluding agricultural production related grain bins and buildings or the confined feeding of livestock,
10. Orchards, vineyards and associated wineries, including the retail sales of produce with the retail sales of food items, nursery stock and the sales of Christmas trees,
11. Wineries,
12. Churches, temples and similar religious uses, excluding buildings used all or in part as schools or for (non-religious) education of youth where the education curriculum is similar to that of a public school,
13. Temporary uses in accordance with Section 523 of this Ordinance,

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14. Public and private utility communications equipment buildings, storage or maintenance yards, buildings or administrative offices for such utilities, communications, micro-wave, cellular communications or other towers in excess of thirty five (35) feet in height, excluding wind energy towers.

414.04 PERMITTED ACCESSORY USES AND STRUCTURES:

1. Drive-thru service facilities,
2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard or on the roof only,
3. On-site signs, including billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 521 of this Ordinance,
4. Outdoor display of merchandise, provided such display shall not be interpreted as meaning the storage, stockpiling or warehousing of materials which are not immediately available for purchase,
5. Accessory uses and structures customarily associated with and incidental to the principal uses.
6. Residential dwelling units on the second or higher in commercial buildings containing a commercial use or on any floor of a commercial building in existence as of the effective date of this Ordinance that is converted in whole or in part to residential use.

414.05 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Animal hospitals, veterinary clinics and kennels,
2. Truck stops, including those with complete truck services,
3. Small Wind Energy towers, as defined in Section 527 of this Ordinance which are in excess of thirty five (35) in height in accordance with the requirements of Section 527 of this Ordinance.
4. Adult business establishments, as defined in Section 303.04 of this Ordinance, subject to the following limitations and requirements:
 - A. No adult establishment shall be located closer than six hundred (600) feet to any similar use and not closer than six hundred (600) feet to any residential dwelling of any type, any church, synagogue or other religious use, any school or any park or public use area, as defined in Section 303.103 of this Ordinance. Measurement of this minimum distance shall be made in a straight line, without regard to intervening structures or objects, from the nearest well of the building housing an adult establishment to the nearest wall of any residential dwelling, the nearest wall of any church, synagogue or other religious building, the nearest wall of any school or the nearest property line of any park or public use area or the nearest wall of any other adult establishment.
 - B. An adult establishment shall front on and have vehicular access to a hard surfaced street or highway.
 - C. An adult establishment shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Plan of the City of O'Neil, Nebraska.
 - D. Applications for any adult establishment shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on adjoining properties and shall include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for vehicle parking, driveways and points of ingress and egress, the location and height of walls or fences, the types and

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- E. location of landscaping, the size, height and number of signs and the manner of providing water supply and sewage treatment.
 - F. An adult establishment shall post a sign at the entrance of the premises which shall state the nature of the business and that no person under the age of eighteen (18) is allowed on the premises. This section shall not be construed to prohibit the owner of such establishment from setting an older age limitation for access to the premises.
 - G. The following activities shall be prohibited in any adult establishment:
 - 1) No adult establishment shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in Sections 303.121 and 303.120 of this Resolution by display, decoration, sign, show window or other opening from any public way or from any property not approved as an adult establishment.
 - 2) No owner / operator of any adult establishment or any officer, associate, member, representative, agent, or employee of such establishment shall engage in any activity or conduct in or about the premises which is prohibited by this Resolution or any other laws of the State of Nebraska.
 - 3) No part of the interior of any adult establishment shall be visible from the pedestrian sidewalk, walkway or vehicle parking area.
 - 5. Other office, business and commercial service uses, determined by the Planning Commission and City Council, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

414.06 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

414.07 MINIMUM LOT AREA:

- 1. The minimum lot area for uses listed in Section 414.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking and loading areas, and maximum rear yard coverage requirements specified in this district.
- 2. The minimum lot area for conditional uses listed in Section 414.05 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot area shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

414.08 MINIMUM LOT WIDTH AND FRONTAGE:

- 1. The minimum lot width and frontage for uses listed in Section 414.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum rear yard coverage requirements of this district.
- 2. The minimum lot width and frontage for conditional uses listed in Section 414.05 shall be the lot width and frontage appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot width and frontage shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

414.09 MINIMUM YARD REQUIREMENTS:

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

1. Front Yard - Fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway.

A landscape buffer, as defined in Subsection 303.77 of this Ordinance, at least five (5) feet in depth shall be provided along and adjacent to the front property line.

For developed areas, as defined in Subsection 303.49 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

2. Side Yard - The minimum side yard shall be Ten (10) feet where the lot line abuts another commercial or industrial zoning district. Where the lot line abuts a residential or residential-office district the minimum side yard shall be twenty (20) feet and a landscape screen, as defined in Subsection 303.78 of this Ordinance shall be installed along the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.
3. Rear Yard - The minimum rear yard shall be ten (10) feet where the lot line abuts another commercial or industrial zoning district. Where the lot line abuts a residential or residential-office district the minimum side yard shall be thirty (30) feet and a landscape screen, as defined in Subsection 303.78 of this Ordinance shall be installed on the property line or within the rear yard. In determining the rear yard requirements such rear yard may be measured to the centerline of any abutting alley which is dedicated for public use.

414.10 MAXIMUM HEIGHT:

The maximum height for any structure or building shall be fifty (50) feet, except for any applicable height restriction of the Airport Hazard Zone District regulations.

414.11 MAXIMUM LOT COVERAGE:

No limitation

414.12 OFF-STREET PARKING AND LOADING AREAS:

The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 516 through 518 and Section 520 of this Ordinance.

SECTION 415 I - 1 LIGHT INDUSTRIAL DISTRICT

415.01 INTENT:

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

415.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above and below ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.

415.03 PERMITTED PRINCIPAL USES:

1. Wholesale, warehouse, distribution, storage and transfer businesses meeting the performance requirements set forth in Section 415.07 below,
2. Engineering or research laboratories, vocational or industrial training schools and data processing uses,
3. Printing and lithography uses,
4. Light industrial uses including the manufacture, assembly, processing, fabrication, cleaning, testing or refining of products, provided such uses meet the performance requirements set forth in Section 415.07 below,
5. Cold storage and food locker establishments which meet the performance requirements set for in Section 415.07 below,
6. Automobile and truck repair and service business, including automotive body and painting businesses which meet the performance requirements set forth in Section 415.07 below,
7. Trade shops, including plumbing, heating and air conditioning, electrical , cabinetry, and similar service trade uses which meet the performance requirements set forth in Section 415.07 below,
8. Temporary uses in accordance with Section 523 of this Ordinance,
9. Billboards and similar off-site signs in accordance with the regulations of Section 521 of this Ordinance,
10. Public and private utility communications equipment buildings, or administrative offices for such utilities, communications, micro-wave, cellular communications or other towers in excess of thirty five (35) feet in height, excluding wind energy towers.

415.04 PERMITTED ACCESSORY USES

1. General office and sales rooms, medical and recreational facilities and watchman quarters associated with the permitted uses,
2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard or on the roof only,
3. On-site signs related to permitted uses and approved conditional uses, subject to the regulations and requirements of Section 521 of this Ordinance,

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4. Accessory uses and structures customarily associated with and incidental to the principal uses.
 5. Residential dwelling units in industrial buildings containing an industrial use.

415.05 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Heliports,
2. Public service uses, including police and fire stations, offices, equipment maintenance buildings and similar public uses,
3. Garbage and refuse collection and disposal contractors and waste recycling operations which meet the performance requirements set forth in Section 415.07 below,
4. Small Wind Energy towers, as defined in Section 527 or this Ordinance which are in excess of thirty five (35) in height in accordance with the requirements of Section 527 of this Ordinance.
5. Other industrial and commercial service uses, determined by the Planning Commission and City Council, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

415.06 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

415.07 PERFORMANCE STANDARDS:

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

1. All activities shall be conducted within entirely enclosed buildings including storage or warehousing of raw materials or products produced.
2. Emission of gasses, odor, dust, smoke, noise, glare, heat or vibration detectable beyond the property line of the site on which the use is located is prohibited.
3. Any waste materials produced on the premises shall be stored outdoors, provided such materials are stored in containers which are not visible from the street(s) on which the use has frontage or access or any abutting residential zoning district and such containers will avoid the blowing of waste material or the attraction of insects or vermin.

415.08 MINIMUM LOT AREA:

1. The minimum lot area for uses listed in Section 415.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking and loading areas, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot area for conditional uses listed in Section 415.05 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot area shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

415.09 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width and frontage for uses listed in Section 415.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum rear yard coverage requirements specified in this district.

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2. The minimum lot width and frontage for conditional uses listed in Section 415.05 shall be the lot width and frontage appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot width and frontage shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

415.10 MINIMUM YARD REQUIREMENTS:

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

1. Front Yard - Fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway.

A landscape buffer, as defined in Subsection 303.77 of this Ordinance, at least five (5) feet in depth shall be provided along and adjacent to the front property line.

For developed areas, as defined in Subsection 303.49 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

2. Side Yard - The minimum side yard shall be ten (10) feet where the lot line abuts an agricultural, commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum side yard shall be twenty (20) feet and a landscape screen, as defined in Section 303.78 of this Ordinance shall be installed on the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.
3. Rear Yard - The minimum rear yard shall be twenty (20) feet where the lot line abuts an agricultural, commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum rear yard shall be thirty (30) feet and a landscape screen, as defined in Section 303.78 of this Ordinance, shall be installed on the property line or within the rear yard. In determining the rear yard requirements such rear yard may be measured to the centerline of any abutting alley which is dedicated for public use.

415.11 MAXIMUM HEIGHT:

The maximum height for any structure or building shall be fifty (50) feet, except for any applicable height restriction of the Airport Hazard Zone District regulations and for uses located within one hundred (100) feet of any residential zoning district where such maximum height shall be thirty five (35) feet.

415.12 OFF-STREET PARKING AND LOADING AREAS:

The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 516 through 518 and Section 520 of this Ordinance.

SECTION 417 I - 2 INDUSTRIAL DISTRICT

416.01 INTENT:

This district is established to provide areas for a wide range of industrial and certain commercial uses which are able to meet certain performance standards to protect nearby non-commercial and non-industrial uses from land use conflicts or undesirable environmental impacts and to protect such industrial and commercial uses from negative impacts from other uses which would conflict with such industrial and commercial uses.

416.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Publicly and privately owned electric utility substations, electric utility distribution systems and associated uses, above and below ground water storage tanks, above and below ground telephone, cable and data transmission systems and other below ground transmission systems conveying gases, petroleum products or other hazardous materials, as defined by the U. S. Environmental Protection Agency, excluding towers in excess thirty five (35) feet in height.

416.03 PERMITTED PRINCIPAL USES:

1. Any use permitted in the I-1, Light Industrial District,
2. Contractor's and construction equipment storage yards,
3. Grain elevators, feed mills, alfalfa mills and similar agricultural product processing mills including ethanol production plants, and related storage,
4. Power production plants and facilities,
5. Any manufacturing or other industrial use which can meet the performance standards set forth in Section 416.07 below and which is not listed as a conditional use or prohibited use in this I-2, Industrial District.

416.04 PERMITTED ACCESSORY USES

1. General office and sales rooms, medical and recreational facilities and watchman quarters associated with the permitted uses,
2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard or on the roof only,
3. On-site signs related to permitted uses and approved conditional uses, subject to the regulations and requirements of Section 521 of this Ordinance,
4. Accessory uses and structures customarily associated with and incidental to the principal uses.
5. Residential dwelling units in industrial buildings containing an industrial use.

416.05 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Any use involving the storage, use or manufacture of hazardous or explosive materials beyond that typically required for normal housecleaning and maintenance activities,
2. Heliports,

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3. Public service uses, including police and fire stations, offices, equipment maintenance buildings, and similar public uses,
 4. Small Wind Energy towers, as defined in Section 527 or this Ordinance which are in excess of thirty five (35) in height in accordance with the requirements of Section 527 of this Ordinance.
 5. Animal rendering, animal slaughtering plants, including curing and tanning plants,
 6. Production of asphalt products, concrete, and other paving materials including recycling of these and other construction materials,
 7. Tar, tar paper and tar product manufacturing or processing,
 8. Manufacture of chemicals, gases, poisons, insecticides and herbicides,
 9. Storage, processing or salvaging of automobiles, trucks, agricultural or other equipment, scrap and junk (junk or salvage yards),
 10. Livestock auction barns and yards,
 11. Bulk fuel, and fertilizer plants,
 12. Sand, gravel, mineral, aggregate or production, screening, crushing, or processing operations,
 13. Sanitary landfills, waste incinerators, solid waste recycling and composting operations,
 14. Other industrial and commercial service uses, determined by the Planning Commission and City Council, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

416.06 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

416.07 PERFORMANCE STANDARDS:

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

1. All activities, excluding those uses such as ethanol production plants, cracking plants, fertilizer production plants or similar uses which utilize production structures instead of buildings, not conducted within entirely enclosed buildings including storage or warehousing of raw materials or products produced shall be screened from view from any abutting property not included in an I-2, Industrial District in accordance with the requirements of Section 416.10 of this Ordinance.
2. Emission of gasses, odor, noise, glare, heat or vibration detectable beyond the property line of the site on which the use is located is prohibited.
3. Emission of dust or smoke beyond the property line of the site on which the use is located shall not be of such quantity or concentration so as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or the public in general.
4. All activities involving the storage or salvaging of automobiles, trucks, agricultural or other equipment and similar operations shall be screened from view from all adjoining streets and all abutting properties not included in an I-1 or I-2, Industrial District by an opaque fence or evergreen tree landscape screen and said screen shall be maintained in good repair at all times.
5. Any waste materials produced on the premises shall be stored outdoors, provided such materials are stored in containers which are not visible from the street(s) on which the use has frontage or access or any

abutting residential zoning district and such containers will avoid the blowing of waste material or the attraction of insects or vermin.

416.08 MINIMUM LOT AREA:

1. The minimum lot area for uses listed in Section 416.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking and loading areas, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot area for conditional uses listed in Section 416.05 shall be the area appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot area shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

416.09 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width and frontage for uses listed in Section 416.03 shall be unrestricted, provided that each lot shall provide a marketable buildable area and all building(s) thereon shall comply with the minimum width, yard, parking area, and maximum rear yard coverage requirements specified in this district.
2. The minimum lot width and frontage for conditional uses listed in Section 415.05 shall be the lot width and frontage appropriate to each conditional use, as determined by the Commission in its review and authorization of each conditional use in accordance with Article 7 of this Ordinance, provided that each lot width and frontage shall be sufficient in size to allow a buildings thereon to comply with the minimum width, minimum frontage, minimum yards, minimum parking area, and maximum rear yard coverage requirements specified in this district.

416.10 MINIMUM YARD REQUIREMENTS:

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

1. Front Yard - Fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway.

A landscape buffer, as defined in Subsection 303.77 of this Ordinance, at least five (5) feet in depth shall be provided along and adjacent to the front property line.

For developed areas, as defined in Subsection 303.49 of this Ordinance, the required front yard shall be the average of the existing front yards, provided that in no event shall such front yard be less than twenty (20) feet, and further provided that where existing front yards exceed the required minimum front yard, the minimum front yard requirement shall apply.

2. Side Yard - The minimum side yard shall be ten (10) feet where the lot line abuts an agricultural, commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum side yard shall be fifty (50) feet and a landscape screen, as defined in Section 303.78 of this Ordinance shall be installed on the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.
3. Rear Yard - The minimum rear yard shall be twenty (20) feet where the lot line abuts an agricultural, commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum rear yard shall be fifty (50) feet and a landscape screen, as defined in Section 303.78 of this Ordinance shall be installed on the property line or within the rear yard. In determining the rear yard requirements such rear yard may be measured to the centerline of any abutting alley which is dedicated for public use.

416.11 MAXIMUM HEIGHT:

46

The maximum height for any structure or building shall be one hundred (100) feet, except for any applicable height restriction of the Airport Hazard Zone District regulations and for uses located within three hundred (300) feet of any residential zoning district where such maximum height shall be forty (40) feet.

416.12 OFF-STREET PARKING AND LOADING AREAS:

The minimum number of off-street parking spaces required for each use permitted or authorized as a conditional use shall be in accordance with the requirements of Section 516 through 518 and Section 520 of this Ordinance.

SECTION 418 FHO FLOOD HAZARD OVERLAY DISTRICT

418.01 FLOOD HAZARD REGULATION AUTHORITY: Pursuant to Sections 31-1001 to 31-1022 R.R.S. 1943, the Mayor and City Council of the City of O'Neill, Nebraska are assigned the responsibility to adopt and enforce floodplain management regulations to protect the public health, safety and general welfare and the Mayor and City Council do hereby adopt, as part of the zoning regulations for O'Neill, Nebraska, the following regulations:

418.02 FINDINGS OF FACT:

1. **FLOOD LOSSES RESULTING FOR PERIODIC INUNDATION:** The flood hazard areas of O'Neill, Nebraska are subject to inundation which 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.
2. **GENERAL CAUSES OF FLOOD LOSSES:** These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

418.03 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 418.02, Subsection A above by applying the provisions of this Ordinance to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazards.
4. Assure that eligibility is maintained for property owners in the areas of the City under the jurisdiction of this Ordinance to purchase flood insurance in the National Flood Insurance Program.

418.04 DEFINITIONS: The following definitions shall apply to this Section (Section 418) and when the following definitions are inconsistent with the definitions set forth in Section 303, the following definitions shall govern with regard to administration of these flood hazard area regulations:

1. Agricultural Commodities: Agricultural products and livestock,
2. Agricultural Structure: Any structure used exclusively in connection with production, harvesting, storage, drying, or raising of agricultural commodities,
3. Base Flood: A flood having a one (1) percent chance of being equaled or exceeded in any given year.
4. Basement: Any area of a building having its floor subgrade below ground level on all sides,
5. Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials,

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6. Existing Manufactured Home Park or Subdivision: 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 these floodplain management regulations,
 7. Expansion of Existing Manufactured Home Park or Subdivision: The preparation of additional sites by 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),
 8. Farm: A crop production, livestock production or other similar enterprise containing twenty (20) acres or more of land from which one thousand dollars (\$1,000) or more of crop or meat products are produced each year,
 9. Farm Building: Any non-residential building located on a farm, as defined above, which is utilized for agricultural purposes,
 10. Flood: A general or temporary condition of parcel 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 or surface waters from any source,
 11. Flood Insurance Rate Map (FIRM): An official map of the City, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the City,
 12. Floodplain: Any land area susceptible to being inundated by water from any source (see Item H above),
 13. Floodproofing: 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,
 14. Floodway: The channel of the 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 a designated height,
 15. Historic Structure: Any structure that is; 1) 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, 2) 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 of the Interior to qualify as registered historic district, 3) 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 4) individually listed on a local inventory of historic places in communities / counties with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.
 16. Lowest Floor: 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 so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
 17. Manufacture Home: 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",
 18. Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale,

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19. New Construction: For floodplain management purposes, "new construction" shall mean structures for which the "start of construction" commenced on or after the effective date of these floodplain management regulations adopted by the City and shall include any subsequent improvements to such structures,
 20. New Manufactured Home Park or Subdivision: 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 these floodplain management regulations adopted by the City,
 21. 100 Year Flood: The condition of flooding having a one (1) percent chance or annual occurrence,
 22. Principally Above Ground: At least fifty-one (51) percent of the actual cash value of the structure is above ground,
 23. Recreational Vehicle: A vehicle which; 1) is built on a single chassis, 2) contains four hundred (400) square feet or less when measured at the largest horizontal projection, 3) is designed to be self-propelled or permanently towable by a light duty truck, and 4) is designed primarily not for use as a permanent dwelling, but as a temporary living quarters for recreational, camping, travel, or seasonal use,
 24. Regulatory Flood Elevation: The water surface elevation of the 100 year flood,
 25. Special Flood Hazard Area: The land in the floodplain with a city subject to a one (1) percent or greater chance of flooding in any given year,
 26. Start of Construction: Including substantial improvement and shall mean the date the zoning permit is issued, provided the actual construction, repair, reconstruction, rehabilitation, addition, placement or other improvement occurs within one hundred eighty (180) days of such permit issuance. The actual start means the first placement or permanent construction of a structure on the 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 shall not include land preparation, such as clearing and filling, nor shall it include the installation of streets and/or other walkways, nor shall it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor shall 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,
 27. Structure: A walled and roofed building that is principally above ground, as well as manufactured home, and a gas or liquid storage tank that is principally above ground.
 28. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to it before-damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred,
 29. Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This shall include structures which have incurred "substantial damage" regardless of the actual repair work performed. The term shall not, however, include either 1) any project for improvement of a structure to correct existing violations of state or local health, safety, 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 place", provided that the alteration shall not preclude the structure's continued designation as a "historic structure",
 30. Variance: A grant of relief to a person from the terms of this floodplain management regulation,

31. Violation: The failure of a structure or other development to be fully compliant with these floodplain management regulations.

418.05 LOCAL ADMINISTRATOR RESPONSIBILITIES: The Zoning Administrator hereby is assigned these added responsibilities and is authorized and directed to enforce all of the provisions of these flood hazard regulations and all other ordinances of the City of O'Neill, Nebraska now in force or hereafter adopted, related to zoning, subdivision regulation or building codes. The Zoning Administrator shall be appointed to these additional responsibilities by adoption of this Ordinance and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Zoning Administrator, the Mayor shall designate an acting administrator to administer these regulations.

418.06 DESIGNATION OF CURRENT FLOOD HAZARD BOUNDARY MAP (FHBM) / FLOOD INSURANCE RATE MAP (FIRM): Until a Flood Hazard Boundary Map / Flood Insurance Rate Map has been published, any development (zoning) permit shall not be issued except in compliance with these flood hazard regulations. In determining those areas such to flood hazard, soil survey and other published data shall be utilized. Further, when such Flood Hazard Boundary Maps / Flood Insurance Rate Maps have been published, such maps shall be automatically designated as the official maps to be used in determining those areas of flood hazard.

418.07 PERMITS REQUIRED: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a zoning permit for development as defined in this Ordinance.

1. Within flood hazard areas, zoning permits are required for all new construction, substantial improvements and other developments, **including the placement of any farm building** or manufactured home.
2. APPLICATION: To obtain a zoning permit, the applicant shall first file an application therefore in writing on a form furnished by City of O'Neill, Nebraska. Every such application shall:
 - A. Identify and describe the development to be covered by the floodplain development permit for which application is made.
 - B. Describe the land on which the proposed development is to be done by lot, block, tract, house and street number or similar description which will readily identify and definitely locate the proposed building or development.
 - C. Indicate the use or occupancy for which the proposed development is intended.
 - D. Be accompanied by plans and specifications for the proposed construction.
 - E. Be signed by the permittee or his/here authorized agent who may be required to submit evidence to indicate such authority.
 - F. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
 - G. Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a written statement from the applicant that they are aware that elevating or floodproofing structures above minimum levels will result in premium reduction for flood insurance, especially in the case of non-residential floodproofing when a minus one (-1) foot penalty is assessed at the time of rating the structure for the policy premium.)

418.08 ZONING PERMIT APPLICATIONS REVIEW: The Zoning Administrator shall review all zoning permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law. In reviewing all applications for

new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments as defined in this Ordinance in flood hazard areas, the Zoning Administrator shall:

1. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State, or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study, and require within flood hazard areas that the following performance standards be met:
 - A. Until a floodway is designated, no development or substantial improvement may be permitted within the identified 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 100 year flood more than one (1) foot at any location.
 - B. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one (1) foot above the base flood elevation.
 - C. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of bouyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.
 - D. New construction or substantial improvements of any type shall be such that fully enclosed areas below the lowest floor that area usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that such devices permit the automatic entry and exit of floodwaters.
 - 1) Require the use of construction materials that are resistant to flood damage.
 - 2) Require the use of construction methods and practices that will minimize flood damage.
 - 3) Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of bouyancy.
 - 4) New structures be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 5) Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State Laws, local building codes, Manufacturers specifications and Federal Emergency Management Agency guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - a. Over-the-top ties be provided at each of the four (4) corners of the manufactured home with two (2) additional ties per side at the intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.

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- b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.
 - c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
 - d. Any additions to manufactured homes shall be similarly anchored.
- 6) Assure that all manufactured homes that are placed or substantially improved within a flood hazard areas on sites:
 - a. Outside of a manufactured home park or subdivision,
 - b. In a new manufactured home park or subdivision,
 - c. In an expansion to an existing manufactured home park or subdivision, or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5, immediately above.
 - 7) Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within a flood hazard areas that are not subject to the provisions of Section 6, immediately above, be elevated so that either:
 - a. The lowest floor of the manufactured home is at least 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 thirty six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5, immediately above.
 - 8) Require that recreational vehicles placed on sites within the identified flood hazard areas either (1) be on the site for fewer than one hundred eighty (180) consecutive days, (2) be fully licensed and ready for highway use, or (3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this Ordinance. A recreational vehicle is ready for highway use if it is on wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

418.09 SUBDIVISION REVIEW: The Planning Commission and Mayor and City Council shall review the plans of any proposed subdivision of land where all or a portion of such land is located in a flood hazard area and shall make findings of fact that:

1. All proposed developments are consistent with the need to minimize flood damage.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than five (5) acres or fifty (50) lots, whichever is lesser, shall include within such proposals the regulatory flood elevation data when in special flood hazard areas.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

In its review of such subdivisions, the Mayor and City Council may require modifications to the subdivision design to minimize flood hazards and assure that all developments within the subdivision comply with these flood hazard regulations.

- 418.10 WATER AND SEWAGE SYSTEMS:** New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems shall be designed to avoid impairment or contamination during flooding.
11. **STORAGE OF MATERIAL AND EQUIPMENT:** The storage or processing of materials that are, in time of flooding, bouyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. 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.
12. **AGRICULTURAL STRUCTURES:** Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying or raising of agricultural commodities, including the raising of livestock, may be constructed at grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale or manufacturing use included in the structure; a variance from the floodplain management requirements of this Section 419 of this Ordinance has been granted; and a floodplain development (zoning) permit has been issued.
13. **FLOOD CARRYING CAPACITY WITHIN ANY WATERCOURSE:** The Mayor and City Council shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The Mayor and City Council shall notify, in riverine situations, adjacent communities and the Nebraska Natural Resources Commission, prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the Mayor and City Council shall work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.
14. **VARIANCE PROCEDURES:** The O'Neill, Nebraska Board of Adjustment, as established by the Mayor and City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determinations made by the Planning and Zoning Administrator in the enforcement of these flood hazard regulations and requests for variances from the requirements of these flood hazard regulations. 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 Section 23-168, R.R.S., 1943.
1. **CONDITIONS FOR VARIANCE:**
- A. Generally, a variance may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size which is contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Subsections 2 through 6 immediately below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for authorizing a variance shall be increased.
- B. 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 a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief from any undue hardship.
- D. Variances shall only be authorized upon:
- 1) a showing of good and sufficient cause;

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- 2) a determination that failure to authorize a variance would result in exceptional hardship to the applicant;
 - 3) a determination that authorizing of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other applicable laws or Ordinances.
- E. The applicant shall be given written notice over the signature of the Zoning Administrator that:
- 1) the authorization of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and
 - 2) such construction below the base flood level increases risks to life and property.

A copy of such signed notification shall be maintained with the record of all such variances, as required by this Ordinance.

- F. In authorizing any variance to these flood hazard regulations, the Board of Adjustment shall consider all technical data and all relevant factors and standards specified in this Ordinance, including:
- 1) the danger that materials may be swept onto other lands to the injury of others;
 - 2) the danger to life and property due to flooding or erosion damage;
 - 3) the susceptibility of any proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 4) the importance of services provided by the proposed facility to the City;
 - 5) the necessity to any facility of a waterfront location, where applicable;
 - 6) the availability of alternative locations, 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;
 - 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 flood waters and the effects of wave action, if applicable, expected at the site, and
 - 11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sanitary sewers, gas, electrical and water systems and road and bridges.

2. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES:

Any variance granted for an agricultural structure shall be decided individually, based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following criteria, as well as those criteria and conditions set forth in this Section of this Ordinance.

In order to minimize flood damages during a 100 year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at grade and wet-floodproofed:

- A. All agricultural structures considered for a variance from these floodplain management regulations shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternative location outside of the special flood hazard area exists for such structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
- B. Use the varied structure(s) shall be limited to agricultural purposes only in Zone A only, as identified on the City's Flood Insurance Rate Map (FIRM).
- C. For any new or substantially damaged agricultural structure(s), the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring etc.)

below the base flood elevation, shall be built with flood-resistant materials in accordance with this Ordinance.

- D. The agricultural structure(s) must be adequately anchored to prevent floatation, collapse, or lateral movement of the structure(s) in accordance with the requirements of this Ordinance. All of the buildings structural components shall be capable of resisting specific flood-related forces including hydrostatic, buoyancy and hydrodynamic and debris impact forces.
- E. Any mechanical, electrical, or other utility equipment shall be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with the requirements of this Ordinance.
- F. The agricultural structure(s) shall meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to a 100 year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with the requirements of this Ordinance.
- G. The agricultural structure(s) shall comply with the floodplain management floodway encroachment provisions of this Ordinance. No variance may be issued for agricultural structure(s) within any designated floodway, if any increase in floodway elevation would result during a 100 year flood.
- H. Major equipment, machinery or other contents must be protected from any flood damage.
- I. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structure(s). The City shall notify the applicant in writing over the signature of the Zoning Administrator that 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and 2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with the record of all variance actions as required by this Ordinance.
- J. Wet-floodproofing construction techniques shall be reviewed and approved by the City and a registered professional engineer or architect prior to the issuance of any zoning permit for development in the floodplain and the cost associated with such review shall be borne by the applicant.

418.15 INTERPRETATION: In their interpretation and application, the flood hazard provisions of the Ordinance shall be held to be minimum requirements and shall be construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Nebraska Statutes.

418.16 WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside floodplain boundaries or land use permitted within floodplain areas will be free from flooding or flood damage. This Ordinance shall not create liability on the part of O'Neill, Nebraska 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.

17. **PENALTIES FOR VIOLATION:** The penalties for violation of these flood hazard regulations shall be the same as set forth in Section 1102 of this Ordinance.

18. **ABROGATION AND GREATER RESTRICTION:** It is not intended by these flood hazard regulations to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where these regulations impose greater restrictions, the restrictions of these regulations shall prevail. All other ordinances inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.

SECTION 419 AHO AIRPORT HAZARD OVERLAY DISTRICT

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

419.02 DEFINITIONS:

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

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

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

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

- 1) An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three (3) miles from the operation zone, the approach zone is three thousand seven hundred (3,700) feet wide, and

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

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- 15. TRANSITION ZONE:** A zone that extends outward at a right angle to the runway centerline and upward at a rate of one (1) foot vertically for every seven (7) feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
- 16. TREE:** Any object of natural growth.
- 17. TURNING ZONE OUTER LIMIT:** The area located at a distance of three (3) miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone or transition zone. The height limit of the turning zone is one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
- 18. VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service approved layout plan or any planning documents submitted to the Federal Aviation Administration by a competent authority.
- 419.03 HEIGHT RESTRICTIONS:** No building, transmission line, pole, tower, chimney, wires or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established nor shall any tree or other object of natural growth be allowed to grow above the heights described in Section 419.02, Subsections 5, 9, 15 and 17 immediately above.
- 419.04 AIRPORT ZONING MAP:** The boundaries, operation zones, approach zones, transition zones and turning zones are indicated on the Airport Zoning Map for the O'Neill Municipal Airport, prepared by the Nebraska Department of Aeronautics as Map No. ZN-ONL-09. Said Airport Zoning Map is hereby made part of this Ordinance by reference.
- 419.05 ZONING PERMIT AND CERTIFICATES OF ZONING COMPLIANCE REQUIREMENTS:**
1. A zoning permit or certificate of zoning compliance shall be required to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth which, when mature, would violate the height limitations of Section 419.03 above.
 2. Application for a zoning permit / certificate of zoning compliance shall be as required under Sections 904 and 905 of this Ordinance.
- 419.06 NON-CONFORMING STRUCTURES:** Unless otherwise limited by other any other section(s) of this Ordinance, within the zoned airport hazard area, any non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth may hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, provided that any such non-conforming use, structure or natural growth shall not increase in height or create a greater hazard to air navigation than existed on the effective date of this Ordinance or applicable amendment thereto. In accordance with Sections 707, Subsections 5 and 7 any non-conforming use which has been voluntarily abandoned for a period of twelve (12) consecutive months or which has been involuntary removed or damaged fire, wind or act of God to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with the height limitations set forth in Section 419.03 above or applicable amendment thereto.

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- 419.07 MARKING OF NON-CONFORMING STRUCTURES:** Whenever the Zoning Administrator shall determine, or shall be notified that a specific non-conforming structure or object exists and has existed prior to the effective date of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals as recommended by the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lesser of said premise, but may be paid by the local airport board, municipality, county or other governmental entity or department.
- 419.08 LAND USES:** Any use listed as an allowable, permitted, accessory or any use authorized as a conditional use in the primary zoning district over which this AHO, Airport Hazard Overlay district is applied shall be allowed in this overlay district, provided that all buildings, structures and other obstacles shall comply with the height limitations of Section 419.03 of this district.
- 419.09 ADMINISTRATION AND ENFORCEMENT:** The Zoning Administrator of O'Neill, Nebraska shall administer and enforce these regulations, and shall be the administrative agency provided for in Section 3-319, R.R.S. 1943, and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act.
- 419.10 BOARD OF ADJUSTMENT:** The Board of Adjustment of O'Neill, Nebraska shall be the Board of Adjustment with respect to these regulations, to have and to exercise the powers conferred by Section 3-320, R.R.S. 1943, and such other powers and duties as are conferred or imposed by law.
- 419.11 VARIANCES:** In accordance with the procedures, requirements and limitations of Article 8, Subsection 802.03 of this Ordinance, a variance to the height limitations established in this overlay district may be requested. Where the Board of Adjustment finds that the proposed variance will not require any modification or revision to any approach or approach procedure as approved the Federal Aviation Administration and it is documented that the proposed structure or alteration of the structure will not require any modification of any airport minimum standards, the Board may find that a hardship exists in the form of peculiar and exceptional practical difficulties and, if so found, may grant a variance from the height restrictions of Section 419.03above.
- 419.12 CONFLICTS:** In the event of any conflict between these airport hazard regulations and any other regulations established by this or other ordinances, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.

ARTICLE 5: SUPPLEMENTAL REGULATIONS

SECTION 501 APPLICATION

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

SECTION 502 YARD REQUIREMENTS

- 502.01** Minimum yards shall be required along all public and private streets as set forth in the zoning district regulations. Any yard abutting a street shall be deemed a front yard for purposes of determining yard requirements.
- 502.02** No principal or accessory building or structure or part thereof, except those structures listed in Section 503 of this Ordinance, shall project into a required front, side, or rear yard.
- 502.03** No eave, cornice overhang, awning, balcony, sills, lintels, chimneys or other similar architectural features of any building shall project into a required front, side or rear yard.
- 502.04** No unenclosed or enclosed steps, porch, entrance platform, ramp, terrace, landing, deck or similar above grade structure shall project into a required front, side or rear yard. (*Refer to Section 503.02*).
- 502.05** Any setback (yard) so placed or oriented that none of the specific setback definitions contained in this Ordinance are applicable shall necessitate a determination by the Zoning Administrator of a suitable setback (yard) dimension which will be consistent with the intent of the setback (yard) requirements within the applicable zoning district.

SECTION 503 YARD EXCEPTIONS

1. At grade patios, driveways, parking areas, loading areas and similar at grade surfacing shall be permitted to encroach into any yard, and such surfaced areas shall not be included in the calculation of maximum lot coverage as set forth in each zoning district regulation.
 2. Awnings and projecting business signs in the C-1, Central Business District shall be permitted to encroach into a front yard, provided that the bottom of such awnings or signs shall not be less than eighty (80) inches from ground level.
- 503.03** Signs within the required yards when developed in accordance with the requirements of Section 521 of this Ordinance.
4. Notwithstanding the requirements of Section 502.04 of this Ordinance, structural canopies for drive through entrances to multi-family, group housing, assisted living, hospitals, nursing homes, convalescent centers, and canopies associated with commercial uses, except open air businesses and canopies over fuel pumps as regulated in Section 514.02 of this Ordinance, shall be permitted to encroach on a front yard, but shall not extend closer than twelve (12) feet to the front lot line.

SECTION 504 FENCES AND WALLS

1. No fence or wall shall be constructed or moved until a zoning permit has been issued for such fence or wall, provided that no such permit shall be required to construct a fence within the AG, Agricultural District for the purpose of containing of livestock.
2. Any fence or wall shall be constructed so as to have the finished side facing adjacent property and street frontage or such fence shall be constructed to have the same finish on both sides.

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3. Ornamental fences, open fences, screen fences, walls, structural screens, and shrubs used to create a natural fence or screen shall be permitted in any required yard, provided that any such fence, wall, screen or shrubs used to create a natural fence or screen located in a front yard shall not exceed a height of forty two (42) inches as measured by perpendicular measured from the nearest ground level. All such fences, walls, or structural screens shall comply with the requirements of Section 510 of this Ordinance with regard to driver visibility at street intersections.
 4. The maximum fence, free-standing wall or screen height along any side or rear yard shall be six (6) feet, as determined by perpendicular measurement from the nearest ground level. All such fences, walls, or structural screens shall comply with the requirements of Section 510 of this Ordinance with regard to driver visibility at street intersections.

504.05 Nothing contained in this Section shall be deemed to prohibit the erection and maintenance of an open fence or chain link fence in connection with an agricultural use, recreational use, or public safety and security fences in any non-residential district. An open fence shall be defined as having at least fifty (50) percent unobstructed openings per square foot and any such fence shall comply with the requirements of Section 510 of this Ordinance with regard to driver visibility at street intersections.

504.06 The use of any electrified or barbed wire fence in residential district shall be prohibited. Use of such fences may be used on top of fencing used as security fencing on public grounds or on private land in commercial and industrial districts and for agricultural purposes for containing livestock in the AG, Agricultural District

504.07 Retaining walls shall not be limited in height, but shall be constructed so that such wall is structurally sound for the height and type of material being retained. Retaining walls shall be constructed only of concrete, wood, steel or retaining wall blocks or combination thereof. Use of any other material shall be prohibited. The location of any such retaining wall shall comply with the requirements of Section 510 of this Ordinance with regard to driver visibility at street intersections.

SECTION 505 HEIGHT EXCEPTIONS

The height limitations set forth in the zoning district regulations shall not apply to spires, belfries, cupolas, parapets, grain elevators, silos, grain legs, antennae, water towers, ventilators, chimneys or other roof appurtenance usually required to be placed above the roof level provided that said appurtenance is not intended for human habitation and that appurtenances such as towers for mechanical or structural necessity with a roof area equal to or in excess of fifty (50) percent of the first floor area of the building shall be considered part of the regulated height of the building and further provided that on any land contained within the airport hazard zone the applicable height restrictions of said airport hazard zone shall remain applicable.

SECTION 506 BUILDING RELOCATION

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

SECTION 507 BULK STORAGE OF CERTAIN MATERIALS

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

SECTION 508 STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved, with the exception of non-residential agricultural structures located in the AG, Agricultural zoning district, shall be on a lot or premises which fronts on a public or approved private street or shall be accessible by means of a recorded access easement at least twenty (20) feet in width to provide safe and convenient access for servicing, fire protection and required off-street parking.

SECTION 509 PARKING AND STORAGE OF CERTAIN VEHICLES

1. It shall be unlawful for any person in charge or control of any property within the City or its one (1) mile planning and zoning jurisdictional area, as indicated on the Official Zoning Map, whether as owner, tenant, occupant, lessee or otherwise, to park, store or place any non-operating, wrecked, junked, partially dismantled or unregistered vehicle or new vehicle parts, used parts of junked or salvaged vehicles on such property. This Section shall not apply to a vehicle, new vehicle parts or used parts of junked or salvaged vehicles stored or placed in an enclosed building on the premises, a vehicle or new vehicle parts or used parts of junked or salvaged vehicles on the premises of a business enterprise operated in a lawful place and in a manner when necessary to the lawful operation of such business enterprise, or a vehicle, new vehicle parts or used parts of junked or salvaged vehicles on the premises under the control of a person who has obtained a hobbyist permit for the restoration of said vehicle. Further, the following exceptions shall apply:
 1. New or used vehicles in transition of becoming registered and duly licensed operable vehicles with substantially all main component parts attached, provided such vehicles shall be parked, stored or placed in a garage, carport or driveway or other space intended for such use.
 2. Not more than one (1) vehicle, which is properly insured and licensed but is temporarily inoperable due to minor mechanical failure but which is not in any manner dismantled and has substantially all main component parts attached, shall remain upon a premises for longer than ten (10) consecutive calendar days.
 3. Not more than one (1) vehicle in fully operational condition, such as a stock car or modified care that has been redesigned or reconstructed for a purpose other than that for which it was manufactured, shall be parked on any premises, provided that no building or garage is located on the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in the front or side yard of any residential premises.
2. No repairing, modifying or dismantling work or operation shall be conducted on any vehicle or parts thereof upon any public right-of-way, whether improved or not, or other public property. Further no repairing, modifying or dismantling work or operation shall be conducted on any vehicle or parts on any premises used or zoned for residential purposes for a period in excess of twenty four (24) hours, except such as shall be accomplished with a hobbyist permit as may be issued by the City.
3. Storage or parking of licensed recreational vehicles, trailers and boats shall be in a garage, carport or behind the nearest portion of a building to a street, provided that not more than two (2) such vehicles shall be parked or stored in an open space, defined as the horizontal area of a premises excluding the building area(s).
4. A recreational vehicle, trailer or boat may be parked outside of an enclosed structure in the required front yard, on a concrete driveway or its equivalent, or on an undeveloped lot under the following conditions:
 1. Open space is unavailable in the rear or side yards of the developed property and there is reasonable vehicular access to either the rear or side yards. A corner lot shall always be deemed to have reasonable access to a side yard and a fence is not deemed to prevent reasonable access.
 2. The recreational vehicle, trailer or boat shall be parked not less than two (2) feet from the front property line or side lot line.
 3. No part of a recreational vehicle, trailer or boat shall extend over a public sidewalk or public right-of-way.
1. On an undeveloped lot, not more than two (2) such vehicles shall be permitted to be parked or stored.
2. Parking is permitted for storage only and any recreational vehicle, trailer, or boat shall not be:
 - A. used for dwelling purposes for more than fourteen (14) days in a calendar year,

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- B. permanently connected to sewer lines, water lines or to electrical lines except for temporary connection to electrical lines for charging batteries,
 - C. used for storage of goods, materials, junk or other items other than those considered to be a part of the unit or essential for its immediate use.
5. A self-propelled recreational vehicle may be parked next to the curb of a public street in front of the premises of the owner of such vehicle, provided such vehicle shall not be parked for a period exceeding twenty four (24) hours.
6. A non-powered recreation vehicle or trailer may be parked next to the curb of a public street in front of the premises of the owner of such vehicle or trailer if attached to the towing vehicle, provided such vehicle shall not be parked for a period exceeding twenty four (24) hours.

5. NOTICE OF VIOLATION AND PENALTIES FOR VIOLATION:

If a violation of this Section occurs, the Zoning Administrator shall issue a notice of violation to any person in charge of control of such premises or shall post a notice of violation on said premises. Such notice of violation shall indicate the nature of the violation, the date of issuance and shall indicate that the person in charge or control of such premises shall have either:

- 1. Seven (7) calendar days from the date of issuance of the notice of violation to eliminate such violation if the maximum storage or parking period set forth in this Section exceeds twenty four (24) hours, or
- 2. Twenty four (24) hours from the date of issuance of the notice of violation to eliminate such violation if the maximum storage or parking period set forth in this Section is twenty four (24) hours or less.

Failure to eliminate such violation shall be a violation of this Ordinance and shall be punishable in accordance with Section 1102 of this Ordinance.

SECTION 510 STREET INTERSECTION VISIBILITY

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

SECTION 511 ONE PRIMARY STRUCTURE PER LOT

No more than one (1) primary structure shall be located on a single lot, except where primary structures are designed and platted as a single entity, under single ownership and control, such as multi-family and clustered residential developments, townhouse development or shopping centers and lots located in recognized industrial parks.

SECTION 512 EASEMENTS

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

SECTION 513 ACCESSORY USES

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

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

513.03 Accessory uses shall be permitted only after the erection and operation of the principal structure and shall not be used unless the principal structure is being used.

513.04 Accessory uses for residential uses and commercial uses shall include swimming pools, provided such swimming pools require a zoning/building permit and shall comply with the following requirements:

1. Swimming pools associated with residential uses shall be located in the side and/or rear yard. Swimming pools associated with commercial uses may be located any yard.

2. Swimming pools and related decks and landings shall comply with the minimum setback requirements in all yards for accessory building and structures.

3. Swimming pools shall be considered part of any required open space and shall not be considered lot coverage.

4. No swimming pool shall be constructed until adequate provisions for drainage of the pool, which will avoid drainage onto neighboring properties, have been made and adequate distance from overhead electrical wires and electrical appurtenances is provided.

5. All swimming pools shall be enclosed by a substantial fence, wall or other barrier which shall be adequate to prevent unauthorized entrance to the pool and pool area by persons or animals. Such fenced or walled area shall be at minimum of five (5) feet in height and shall be equipped with a self-closing, self-latching gate which is lockable.

SECTION 514 OPEN AIR BUSINESSES

514.01 Any business establishment where the principal use is the drive-in type or is generally characterized by open air operations shall be permitted to locate such open air aspects of the business in the front yard, provided that a landscape buffer, as defined in this Section 303.78 of this Ordinance, at least five (5) feet in width shall be provided along the front property line.

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

SECTION 515 HOME OCCUPATIONS AND HOME BASED BUSINESSES

515.01 A home occupation or home based business may be permitted to accompany any residential use only after the issuance of an occupancy permit by the Zoning Administrator and such permit shall be issued only if the home occupation or home based business complies in all respects to the requirements of this Section.

515.02 A home occupation or home based business shall be of a personal or professional service nature and such home occupations or home based business shall not change the residential character of the premises or the structures thereon or interfere with the residential use of adjoining residential uses or residential uses across the street of the premises. No provision for additional off-street parking or loading facilities other than those which would normally be accessory to the residential use shall be permitted and on-street parking for customers of such home occupation or home based business shall be limited to those on-street parking spaces located on the same side of the street and along the frontage of the lot or premises where such home occupation or business is located. In instances where on-street parking is prohibited on one or both sides of the street, customer parking shall be limited to the off-street parking on the premises.

515.03 The principal use of the premises shall be for residential purposes and the owner and operator of the home occupation or home based business shall be the occupant of the residential dwelling on the premises.

515.04 The owner / operator of the home occupation or home based business shall not employ more than one (1) employee other than members of the immediate family of the owner / operator who reside on the premises.

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- 515.05** No exterior alteration which would change the residential appearance of the residential dwelling structure or any accessory building, including the use of lighted canopies, shall be permitted.
- 515.06** If the home occupation or home based business is located in the residential dwelling structure, such use shall not occupy more than twenty five (25) percent of the floor area of such structure, provided this restriction shall not apply to in-home child care businesses. A home occupation or home based business may be conducted in an accessory building, provided such building is clearly a building that is accessory to the residential use.
- 515.07** No additional or separate entrance which is inconsistent with the use of the residential dwelling structure shall be constructed solely for the purpose of conducting such home occupation or home based business.
- 515.08** No display of goods or exterior evidence of the home occupation or home based business shall be permitted, except for one (1) non-animated, non-illuminated, non-flashing sign which identifies the occupation business. Said sign shall not exceed a total of ten (10) square feet in area and shall be attached flat against a wall of the residential dwelling structure or accessory structure in which the occupation or business is conducted. No temporary or movable signs of any type shall be used in conjunction with any such occupation or business.
- 515.09** No equipment of process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises of such home occupation or home based business.
- 515.10** No stock in trade or products used, manufactured, assembled, produced or created on the premises or any other products shall be sold on the premises, except for sale of merchandise directly incidental to the personal or professional service provided as a home based business.
- 515.11** Beauty shops and similar personal service home based businesses shall be limited to one (1) work station.

SECTION 516 OFF-STREET PARKING

- 516.01** Accessory off-street parking facilities, including parking facilities for handicapped drivers as required under the Americans with Disabilities Act, shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this Ordinance in accordance with the provisions of this Section, which are designed to alleviate or prevent congestion of public streets by establishing minimum requirements for on-site and off-site parking areas for motor vehicles consistent with the parking needs of the use on each premises.
- 516.02** No use lawfully existing at the date of adoption of this Ordinance or amendment thereto shall be required to provide or maintain the parking spaces required in this Section, provided that off-street parking spaces required by any previous ordinance shall be provided and maintained and further provided that if the number of existing off-street parking spaces which are in excess of any prior ordinance, but less than the number required by this Ordinance shall be maintained.
- 516.03** For any non-conforming structure which is hereafter damaged or partially destroyed and which is lawfully reconstructed, reestablished, or repaired, off-street parking spaces equivalent to those maintained on the premises at the time of such damage shall be restored and maintained, provided that in no case shall it be required to restore off-street parking spaces in excess of those required by this Ordinance for the use on the premises.
- 516.04** If the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other means which will have the effect of increasing the need for parking spaces, the number of additional off-street parking spaces required by this Ordinance for such additions shall be provided.
- 516.05** Whenever, the existing use of a building, structure or premises shall hereafter be changed or converted to another use, off-street parking spaces required by this Ordinance for such new use shall be provided on the premises, except that this requirement shall not apply to a change of use in the C-1, Central Business District.

516.06 Nothing in this Ordinance shall prevent the voluntary establishment of accessory off-street parking facilities to serve any existing use, provided that all requirements with regard to location, design, landscape screening or buffering are complied with.

516.07 Off-street parking spaces shall be provided in one or more areas on the same lot or premises as the use served, except as otherwise provided in the Ordinance.

516.08 Off-street parking spaces required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than one (1) ton capacity of employees, occupants or customers and such spaces shall not be used for the storage or display of materials or products or the repair or dismantling of any material.

516.09 Required off-street loading areas shall not be construed as being part of any required off-street parking area.

516.10 Each required off-street parking space shall be at least eight and one-half (8 ½) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns or work areas, provided that the minimum length of any parallel parking space shall be twenty three (23) feet and further provided that parking space dimensions for handicapped drivers shall be as set forth in Section 516.11. Such parking spaces shall have adequate vertical clearance to allow each space to be used for parking.

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

1. NUMBER OF DISABLED ACCESSIBLE PARKING SPACES:

| <u>Total Parking Spaces</u> | <u>Required Minimum Number of Disabled Accessible Parking Spaces</u> |
|-----------------------------|----------------------------------------------------------------------|
| 1 - 25 | 1 |
| 26 - 50 | 2 |
| 51 - 75 | 3 |
| 76 - 100 | 4 |
| 101 - 150 | 5 |
| 151 - 200 | 6 |
| 201 - 300 | 7 |
| 301 - 400 | 8 |
| 401 - 500 | 9 |
| 501 - 1,000 | Two (2) percent of the total |
| 1,001 and over | Twenty (20) plus one (1) for each 100 over 1,000 |

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

| | |
|---------------------------------------------------------------------------------------------------|------------------------------------------|
| Outpatient Facilities..... | Ten percent (10%) of the total spaces |
| Facilities specializing in treatment or services for persons with mobility impairments..... | Twenty percent (20%) of the total spaces |

2. LOCATION OF DISABLED ACCESSABLE PARKING SPACES:

Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from the parking area to an accessible entrance. In parking facilities which do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking areas, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

3. SIGNAGE:

Signage of accessible parking spaces shall be designated as reserved by a sign showing a symbol of accessibility. Spaces complying with Subsection 4 below shall have an additional "van accessible" sign mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

4. ACCESS AISLES:

One (1) in every eight (8) disabled accessible parking spaces, but not less than one (1) space, shall be served by an access aisle at least eight (8) feet wide and shall be designated "van accessible". The vertical clearance shall be at least the minimum specified in Subsection 7 below. All such spaces may be grouped on one (1) level of a parking structure.

Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access 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 1:50 (2%) in all directions.

5. VALET PARKING:

If valet parking services and facilities are provided a passenger loading zone complying with Subsection 6 below, located on an accessible route to the entrance of the facility served, shall be provided.

6. PASSENGER LOADING ZONES:

If passenger loading zones are provided in association with any use, at least one (1) passenger loading zone shall provide an access aisle at least five (5) feet wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

7. MINIMUM VERTICAL CLEARANCE:

Minimum vertical clearance of one hundred fourteen (114) inches at accessible passenger loading zones and along at least one (1) vehicle route to such areas from the site entrance(s) and exit(s) shall be provided. At parking spaces complying with Subsection 4 above a minimum vertical clearance of ninety eight (98) inches at the parking space and along at least one (1) vehicle access to such space from the site entrance(s) and exit(s) shall be provided.

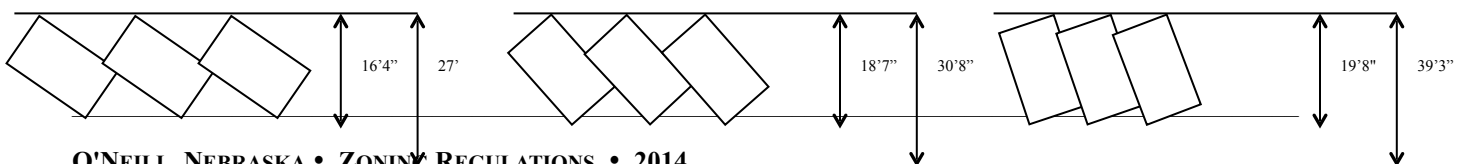
516.12 All driveways or other areas used to satisfy the off-street parking requirement for all residential uses shall be paved with asphalt or concrete. All areas used to satisfy the off-street parking requirements for non-residential uses shall be surfaced with gravel, crushed rock or paved with asphalt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

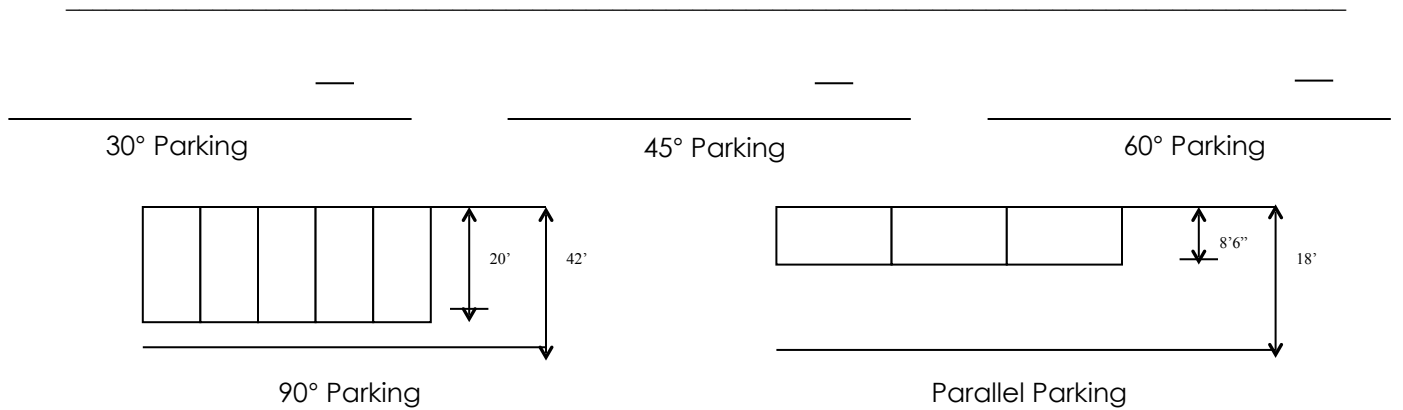
516.13 Off-street parking areas may be provided in the required front yard, except as otherwise restricted in this Ordinance, provided that any landscape buffer or landscape screen required by the applicable zoning district regulations shall be provided along the front property line.

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

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

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





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

Use Description

Off-Street Parking Spaces Required

Agricultural uses

No requirement, except for roadside stands for the sale of produce shall be provided with an adequate number of off-street parking spaces so that parking does not occur on a public roadway and for residential uses associated with an agricultural use which shall comply with the parking requirements for such residential use as set forth herein.

Single-family residential uses

Two (2) spaces per dwelling unit including garage, carport or driveway parking

Two-family, townhouse or multi-family residential uses

One and one half (1 ½) spaces per dwelling unit including garage, carport or driveway parking

Rooming houses, dormitories, fraternities or sororities

One (1) parking space for each two (2) beds

Hotels and motels

One (1) parking space per lodging room plus one (1) parking space per employee per largest working shift and any spaces required for any restaurant or lounge associated with any hotel or motel

Bed and Breakfast businesses

One (1) parking space for each two (2) lodging rooms

Nursing homes, and hospitals

One (1) parking space for each four hundred (400) square feet of floor area or one (1) parking space for each two patient beds, whichever is lesser, plus one (1) parking space per employee per largest working shift

Assisted living and hospice housing

One (1) parking space for each independent dwelling unit and one-half (1/2) space for each dependent dwelling unit plus one (1) parking space per employee per largest working shift

Use Description

Off-Street Parking Spaces Required

Children’s homes

One (1) parking space for each six (6) beds, plus one (1)

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | space for each employee per largest working shift |
| Child care centers, day nurseries and similar uses | One (1) parking space for each three children served plus one (1) parking space for each employee per largest working shift. |
| Clubs, and lodges (without bars, lounges or restaurants), community centers, public administrative, utility and public service offices, libraries, museums and similar uses | One (1) parking space per each four hundred (400) square feet of floor area or one (1) parking space per for each eight hundred (800) square feet of floor area plus one (1) parking space for each employee per largest working shift, whichever is greater |
| Public or private schools | Eight (8) parking spaces per classroom, laboratory or other student instruction area |
| Sports arena, gymnasium or similar use | One (1) parking space for each three (3) seats unless said arena or gymnasium is operated in conjunction with a public or private school where either the parking requirement for the school or for the arena or gymnasium, whichever is greater, shall apply |
| Theaters, auditoriums, assembly halls, funeral homes and similar places of congregation | One (1) parking space for each four (4) seats in the main seating area |
| Churches and similar places of worship | One (1) parking space for each three (3) seats in the main seating area |
| Boarding schools, vocational and trade schools colleges and similar educational institutions | One (1) parking space for each six (6) students based upon the maximum number of students the facility is designed to accommodate at any one time during a twenty four (24) hour period |
| General business uses, offices, retail and personal and professional service uses, except eating establishment, bars and lounges, discount retail stores, and strip developments with more than two (2) retail stores and retail shopping malls | One (1) parking space for each four hundred (400) square feet of floor area |
| Discount retail stores, strip developments with more than two (2) retail stores and retail shopping malls | One (1) parking space for each three hundred (300) square feet of floor area |
| Eating establishments, bars, lounges, night clubs and similar uses, excluding drive-in eating establishment where the customer eats in their vehicle | One (1) parking space for each three (3) customer seats plus one (1) parking space for each employee per largest working shift |
| Drive-in eating establishments where the customer eats in their vehicle | One (1) parking space for each two hundred (200) square feet plus one (1) parking space per employee per largest working shift |

Use Description

Off-Street Parking Spaces Required

Open air businesses including auto, truck, recreational vehicle, mobile home or boat

One (1) parking space per employee per largest working shift plus an adequate number of parking spaces for

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|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| sales uses, kennels, plant nurseries and similar uses | customers, but not less than five (5) additional parking spaces |
| Automobile or truck service stations or repair businesses | One (1) parking space for each employee per largest working shift plus two (2) parking spaces for each automobile or truck service stall |
| Amusement establishments, public swimming pools, golf courses, bowling alleys, skating rinks, and similar recreational uses | One (1) parking space for each five hundred (500) square feet of floor area or five (5) parking spaces for each hole or alley, or one hundred (100) square feet of water surface area, whichever is greater |
| Commercial and industrial uses not catering to on premise retail customers | One (1) parking space for each one and one-fourth (1 and ¼) employees per largest working shift plus an adequate number of parking spaces to accommodate visitors and business vehicles operating from the premises |

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

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

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

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

SECTION 517 OFF-SITE PARKING FACILITIES

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

- 517.01** A site development plan for such off-site parking facility shall be filed with the Planning Commission and said site plan shall demonstrate compliance with all applicable requirements for off-street parking facilities, including landscape buffer and screening, as set forth in this Ordinance, and a listing of all individual off-site uses which shall be entitled to utilize such off-site parking facility, including the number of spaces committed to each such off-site use.
- 517.02** Any such off-site parking facility shall be located in an area included in the R/O, Residential Office District or any non-residential zoning district and shall be situated within three hundred (300) feet of the lot(s) on which the use or uses to be served by said off-site parking facility, measured along the street or sidewalk connecting such parking facility to the use or uses served by the parking facility.
- 517.03** Any such off-site parking facility shall be surfaced with gravel or crushed rock, asphalt or concrete capable of carrying a wheel load of four thousand (4,000) pounds and shall be maintained in good condition and be free of all weeds, dirt, trash or debris.
- 517.04** The individual parking spaces in any such off-site parking area shall be delineated either by properly anchored wheel stops in the case of gravel or crushed rock surfacing or by painting of stripes and installation of curb or wheel stops in the case of asphalt or concrete surfacing.

517.05 Any off-site parking facility shall have a landscape buffer on all street frontages at least six (6) feet in width and any off-site parking facility abutting a residential zoning district shall be required to have a landscape screen on all side or rear yards that abut a residential zoning district.

SECTION 518 ON-STREET PARKING BLISTERS

Notwithstanding other requirements of this Ordinance, the establishment of parking blisters on public street rights-of-way within the City may be authorized by the City Council, after review and recommendation by the Planning Commission, to substitute for all or part of the off-street parking requirement for two-family, townhouse, and multi-family residential uses, subject to the following limitations and requirements:

- 518.01** Parking blisters shall be permitted only on streets classified on the City's Major Street Plan as local streets.
- 518.02** All parking blisters shall be located to maintain the minimum street intersection site distance as required in Section 510 of this Ordinance and such site distance requirement shall also apply to any intersection of a street and a public alley.
- 518.03** The parking arrangement of any parking blister shall be parallel with the street curb or edge of pavement or angled from such curb or edge of pavement at an angle not exceeding forty one (41) degrees from the curb or edge of pavement. Where a street curb does not exist such shall be installed as part of the paving of such parking blister.
- 518.04** All parking blisters shall provide for pedestrian movement in the form a sidewalk abutting the edge of the parking blister which is a minimum of six (6) feet in width and extending the length of the parking blister. Such sidewalk shall connect with any other sidewalks serving the premises or adjoining lots.
- 518.05** Any parking blister shall not exceed the length of the frontage of the lot of which the use it serves is located and no part of any vehicle parked in such parking blister shall extend beyond the frontage of the lot which the parking blister serves.
- 518.06** Any parking blister shall be paved with concrete or asphalt in accordance with City street paving standards and shall provide for proper drainage and be equipped with a curb on the frontage of the lot. Minimum parking space dimensions, as set forth in this Ordinance, shall be required in any parking blister.
- 518.07** Maintenance and snow removal from a parking blister shall be the responsibility of the owner of the lot which such parking blister serves.
- 518.08** Any part of the total off-street parking requirement not satisfied by a parking blister shall be provided on the lot on which the use served by the parking blister is located.
- 518.09** If disabled accessible parking is not provided elsewhere on the lot on which the use served by the parking blister is located such parking space(s) shall provided in the parking blister in accordance with the requirements of Section 516.11 of this Ordinance.

SECTION 519 DOWNTOWN PARKING

- 519.01** Due to the pedestrian oriented nature of the some areas included in the C-1, General Business Zoning District, and the availability of on-street parking in the central business district, the off-street parking requirements contained in Section 516 of this Ordinance shall not be applicable to any commercial use existing in the C-1, Central Business District at the date of adoption of this Ordinance, provided that any such existing use is not expanded through addition of floor space already existing in the area zoned C-1, Central Business District at the date of adoption of this Ordinance.
- 519.02** Construction of new building in the C-1, Central Business District when such building does not replace any building or buildings existing in the area so zoned at the date of adoption of this Ordinance or when the square footage contained in the new building exceeds the square footage of any building or buildings existing in the area so zoned at the date of adoption of this Ordinance which are demolished, shall require development of

additional off-street parking spaces in accordance with the requirements of Section 516 of this Ordinance, provided that in the instance of where a existing building is demolished the off-street parking requirement shall be only for any floor area developed which is in excess of the floor area of the existing building or buildings which is/are removed.

519.03 Any or all of any off-street parking requirement for any new building or expansion of any existing use through construction of additional floor area in the C-1, Central Business District may be provided in one (1) or more off-site parking lots which collects and combines such off-street parking requirements for one or more uses in the C-1, Central Business District. Such off-site parking lots shall be developed in accordance with the following requirements:

1. An off-site parking lot may be located in any non-residential zoning district or in the R/O, Residential Office District within a distance of six hundred (600) feet of the use or uses served, measured along the nearest pedestrian walkway to the nearest point of said use or uses.
2. In order to encourage the development of additional off-site parking lots to serve the central business district, the number of off-street parking spaces per use utilizing such off-site parking lot may be reduced ten (10) percent below the off-street parking requirements applicable to such use or uses.
3. Off-site parking lots may be developed without yards, provided that a landscape buffer at least five (5) feet in depth shall be provided along all abutting streets and that a landscape screen shall be required in any side or rear yard which abuts a residential zoning district.
4. All off-site parking lots shall be surfaced with gravel or crushed rock or be paved with asphalt or concrete.
5. All parking spaces and drive aisles contained in any such off-site parking lot shall be developed in accordance with the design standards and marking requirements set forth in Section 516 of this Ordinance.

SECTION 520 LOADING AREA REQUIREMENTS

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

520.02 Commercial uses located in the C-1, Central Business District and existing at the date of adoption of this Ordinance shall not be required to meet the loading area requirements of this Section. Commercial uses located in the C-1, Central Business District which are developed after the date of adoption of this Ordinance and so located that there is no alley abutting the location shall be required to establish an off-street loading area in accordance with the requirements of Subsection 520.01 above.

SECTION 521 SIGNS

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

521.02 All signs legally existing at the date of adoption of this Ordinance or applicable amendment thereto may remain in use under the conditions of legal non-conformance. Signs in legal non-conformance shall not be enlarged, moved, lighted, or reconstructed without compliance with this Ordinance, provided, however, that normal maintenance of such signs and the changing of the advertising display in the case of billboards shall

not be restricted. Conversion of any non-conforming business sign to another business sign or product name may be done, provided such non-conforming sign is not an obsolete sign, as defined in Section 521.03, Subsection 7 herein. If such non-conforming sign is determined to be an obsolete sign, it shall not be converted to any other sign unless such conversion would bring such sign in conformance with these regulations.

521.03 Definitions:

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

521.04 EXEMPTIONS:

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

1. Signs not exceeding two (2) square feet in area and bearing only property numbers, address numbers, names of occupants or premises, or other identification of the premises not denoting any business activity.

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2. Flags, signs and insignia of any governmental unit, civic, educational or religious organization, except where displayed in connection with a business promotion.
 3. Legal notices, identification, informational, warning, no trespassing, directional or other similar signs erected, or required to be erected by any governmental unit and informational or directional signs allowed by the City Council to be placed in any public right-of-way.
 4. Memorial plaques, historical markers, integral decorative or architectural features of a building, except trademarks, moving parts or moving lights.
 5. One (1) real estate sign for each lot frontage indicating “for sale”, “for rent or lease”, provided any such sign shall be set back at least fifteen (15) feet from any street right-of-way line.
 6. Political campaign yard signs, provided such signs are not placed in any public right-of-way.
 7. Window signs, including pictures, symbols, writing or combination thereof designed to promote an on-site activity that is placed inside a window and is visible from the exterior.

521.05 INCIDENTAL SIGNS:

The following incidental signs shall be permitted, subject to the listed requirements and limitations:

1. Signs, on private property, directing and guiding traffic, identifying a parking or loading area, designating building entrances. Such signs shall not exceed ten (10) square feet in area for each sign, shall not exceed a height of three and one-half (3 1/2) feet. A free-standing incidental sign shall be set back a minimum of five (5) feet from any street or alley right-of-way line.
2. Temporary signs in connection with a special event, provided such signs are limited in use to thirty (30) days per premises and are set back a minimum of five (5) feet from any street or alley right-of-way line.
3. Temporary signs in connection with buildings under construction, model homes and similar longer term temporary signs which shall be removed when the work or sale is completed. Such signs shall be set back a minimum of five (5) feet from any street or alley right-of-way line.
4. A temporary or permanent subdivision identification sign for each street entrance into a subdivision. Such sign shall not exceed two hundred fifty (250) square feet or forty-two (42) inches in height and shall be set back a minimum of ten (10) feet from any right-of-way line unless a greater set back is required to maintain street intersection visibility in accordance with Section 510 of this Ordinance.
5. Off-site signs identifying a church, school, hospital, public park, historic site, local service and benevolent organizations and other public facilities, subject to the following limitations:
 - A. Such signs shall be placed on private property and shall not be placed on any public property or public right-of-way unless so authorized by the City Council.
 - B. Such signs may only be placed in a commercial or industrial zoning district.
 - C. Such signs shall be located no closer than five (5) feet to a right-of-way line of any street.
 - D. Such signs shall not have a sign face area exceeding sixteen (16) square feet and such signs shall not exceed ten (10) feet in height.
 - E. Not more than one (1) such sign may be placed on the same sign structure.
 - F. Such signs shall be located no closer than two hundred (200) feet to any other sign, excluding those signs listed as exempted signs in Section 521.04 of this Ordinance.
 - G. Such signs may be lighted.

521.06 MAINTENANCE AND REMOVAL:

1. All signs shall be kept in good repair.
2. Signs and sign structures which are obsolete, no longer functional or are abandoned shall be removed within sixty (60) days after written notification from the Zoning Administrator that such sign is deemed to be obsolete, non-functional, abandoned, or the sign face and/or structure is dilapidated.

521.07 GENERAL PROVISIONS:

1. No sign or sign structure shall be placed on private property or public property without the consent of the owner of such property.
2. No sign or sign structure, other than official street or highway signs, shall be placed upon, over or in any street or highway right-of-way, except in the Central Business District or as otherwise authorized by the City Council.
3. No sign or sign structure shall be erected at any location where it will interfere with, obstruct the view of pedestrians or on-coming vehicular or railroad traffic, or be confused with any authorized traffic control sign, signal or device. No rotating beam, beacon or flashing illumination resembling any emergency vehicle lights shall be used in connection with any sign.
4. It shall be unlawful to erect and maintain:
 - A. Any sign which is not included under the types of signs permitted in this Ordinance.
 - B. Any portable or movable sign, except as a temporary sign in accordance with the regulations set forth in this Section.
 - C. A billboard and a on-site business sign on the same lot.
 - D. Any trailer, vehicle, semi-truck trailer or other movable vehicle shall not be used as a structure for any sign, except as a temporary sign in accordance with the regulations in this Section.
5. Business signs and billboards may be illuminated except as otherwise restricted in this Section. When such signs are directly lighted such light fixtures and reflectors shall not extend more than eight (8) feet from the sign face and shall not extend into any public right-of-way, except as authorized in the C-1 Central Business District. Such light fixture extension shall be allowed to encroach on a required yard. Lighting fixtures shall be shielded where necessary to prevent direct view of the light bulbs from any public right-of-way or adjoining property.
6. No sign or sign structure, except a projecting sign, shall extend more than fifteen (15) inches from the building wall on which it is mounted.
7. Not more than one (1) projecting sign shall be allowed for each lot or occupant thereof and the maximum sign surface area shall be fifty (50) square feet per side. In no case shall a projecting sign extend more than eight (8) feet beyond its supporting structure or be less than eighty inches (80) inches above ground level. Projecting signs may be illuminated, flashing or animated, except as otherwise restricted in this Section.
8. Signs or sign structures shall be set back from any right-of-way line in accordance with the yard requirements of the applicable zoning district, except as otherwise specified in this Section and provided that in the case of a projecting sign, except in the C-1 Central Business District, where the building wall on which the sign is mounted is located closer than eight (8) feet to the setback line, such sign may extend up to six (6) feet into the required yard.
9. No sign shall be located in a site distance triangle, as set forth in Section 510 of this Ordinance.

10. A free-standing pole or monument sign shall not be located closer than ten (10) feet to any side or rear property line.

521.09 BUSINESS SIGNS:

The number and size of business signs for business uses permitted in the R/O, Residential Office or any commercial or industrial zoning district shall be limited as follows:

1. No more than one (1) business sign shall be permitted on any lot used for business purposes in the R/O, Residential Office Zoning District and no more than three (3) business signs shall be permitted on any lot in a commercial or industrial zoning district, except that when the principal business building is located on a corner lot and has vehicular entrances to both streets or when the principal business building has public entrances to both a front and rear of the building, one (1) additional sign shall be permitted.
2. Business signs on any premises zoned for commercial or industrial use may be wall-mounted, projecting, free-standing or monument signs.
3. The maximum sign face area for wall mounted business signs in the R/O, Residential Office Zoning District shall be fifty (50) square feet for each street frontage. The maximum sign face area for wall mounted business signs in a commercial or industrial zoning district shall be two hundred (200) square feet for each street frontage, provided that on lots having street frontage greater than fifty (50) feet, the maximum wall-mounted business sign face area may be increased one (1) square foot for each lineal foot of street frontage over fifty (50) feet up to a maximum of four hundred (400) square feet.
4. A monument business sign may be located no closer than five (5) feet to a lot line, provided such sign face area does not exceed sixty (60) square feet and such sign height does not exceed forty two (42) inches. For each one (1) foot that a monument sign is moved back from a front lot line, the sign face area may be increased by fourteen (14) square feet and the height may be increased by six (6) inches, provided that the maximum sign face area shall not exceed two hundred (200) square feet and the maximum sign height shall be eight and one-half (8 and 1/2) feet.
5. A free-standing pole mounted sign may be located no closer than five (5) feet to a lot line, provided such sign face area does not exceed sixty (60) square feet and such sign height does not exceed fifteen (15) feet. For each one (1) foot that a pole mounted sign is moved back from a front lot line, the sign face area may be increased by five (5) square feet and the height may be increased by one (1) foot, provided that the maximum sign face area shall not exceed two hundred (200) square feet and the maximum sign height shall be fifty (50) feet.
6. For unified centers, including shopping centers and industrial parks, one (1) additional sign shall be permitted at the main entrance to such unified center, subject to the following requirements:
 - A. Such sign shall be an monument sign and shall indicate only the name and location of such unified center and the name and type of business of the occupants of such center.
 - B. The set back, sign face surface area and height shall be as regulated in Subsection 521.07, Paragraph 3 immediately above.
 - C. Such sign may be illuminated or lighted, but shall not be flashing or animated.

521.10 BILLBOARDS:

1. It is the intent of this Section to establish reasonable and uniform limitations, safeguards and controls for the location of billboards. Such regulations are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interest of the City.
2. Billboards shall be permitted on a lot with one (100) feet or more of frontage on a street classified in the City's Major Street Plan as an arterial street and only in areas included in the C-1, General Commercial

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- District or any industrial zoning district.
3. A billboard shall not be less than fifty (50) feet from any other building or on-site sign or two hundred (200) feet from another billboard on the same side of the street.
 4. Billboards shall not be permitted on the same lot as any unified center shopping center.
 5. The minimum front yard from any street or highway right-of-way shall be in accordance with the front yard requirements of the applicable zoning district.
 6. The minimum side or rear yard shall be five (5) feet, except as specified in Paragraph 7 below.
 7. No billboard shall be permitted within one hundred (100) feet of a residential zoning district.
 8. The sign face of a billboard shall not be greater than ten (10) feet in vertical dimension or greater than thirty (30) feet in horizontal dimension and the maximum sign face area shall not exceed three hundred (300) square feet.
 9. A billboard shall not contain more than two (2) advertising sign per sign face.
 10. A maximum of two (2) signs back-to-back shall be permitted per sign structure.
 11. Double-decker sign faces are prohibited.
 12. The maximum height of a billboard shall be twenty (20) feet above ground level at the base of the sign.

SECTION 522 TOWERS

The Communications Act of 1934, as amended by the Telecommunications Act of 1996 prohibits local governments from prohibiting or tending to prohibit any person from providing wireless telecommunications service. In compliance with this Act, erected telecommunications towers and other erected towers in excess of thirty five (35) feet in height shall be approved as conditional uses in the zoning districts in which said towers are allowable, provided such towers comply with or exceed the following minimum requirements:

522.01 The applicant proposing to construct any such tower shall submit an affidavit attesting to the fact that the applicant has made diligent, but unsuccessful efforts to obtain permission to share or co-locate the applicant's telecommunications facilities on a tower or usable antenna support or written technical evidence from an engineer that the applicant's telecommunications facilities cannot be installed or co-located on an existing tower or usable antenna support structure.

522.02 Any tower located in the airport hazard zone of the O'Neill Municipal Airport shall comply with the limitations imposed by the AHO, Airport Hazard Overlay District.

522.03 Any tower shall be set back from the right-of-way line of any public roadway or from the nearest wall of any neighboring church, school, or residential dwelling located on an unplatted tract, or the nearest lot line of any lot platted and zoned for residential use whether or not a residential dwelling is located on such lot or lots by a distance equal to or exceeding the height of the tower.

522.04 The base of any tower shall be enclosed within a security fence or wall to preclude unauthorized access to the tower.

5. When located within one hundred fifty feet of any residential zoning district, a landscape screen shall be installed along the boundaries of the tower site abutting any residential zoning district.
6. A condition of conditional use authorization of any tower shall be that the applicant shall agree to allow sharing or co-location by other telecommunications entities whenever possible.

7. Any tower shall not be artificially lighted, except as required by the Federal Aviation Administration. In cases where lighting is required and there are residentially zoned properties within three hundred percent (300%) of the height of a tower, any such tower shall be equipped with dual mode lighting.

SECTION 523 TEMPORARY USES

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

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

523.02 Temporary uses shall also comply with the following performance standards:

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

3. Temporary uses shall not block public street and alley intersection visibility and shall comply with Section 510 of this Ordinance.

4. Temporary uses shall not be permitted to use or occur on any public property, except as approved by the City Council and except for on street parking associated with a temporary use where such parking is permitted.

5. Temporary uses shall comply with the requirements of the zoning district in which the use occurs and signs associated with a temporary uses shall comply with the applicable regulations of Section 621 of this Ordinance.

SECTION 524 MANUFACTURED HOME - MOBILE HOME PARKS, COURTS AND SUBDIVISIONS

524.01 Manufactured Homes, as defined in Section 303.90 of this Ordinance and Mobile Homes, as defined in Section 303.91 of this Ordinance, as well as site-built homes may be placed in manufactured home - mobile home parks, courts or subdivisions, provided such mobile home parks, courts or subdivisions have been authorized as a conditional use and such parks, courts or subdivisions meet the following minimum requirements:

524.02 Manufactured Home - Mobile Home Park / Court:

The following minimum requirements shall apply to any manufactured home - mobile home park or court developed after the effective date of this Ordinance and to any expansion of any mobile home park or court already existing as of the effective date of this Ordinance:

1. A manufactured home - mobile home park or court shall have an area of not less than one (1) acre.
2. Each lot provided for manufactured or mobile home placement shall have on area of not less than four thousand (4,000) square feet and a minimum width of thirty six (36) feet.
3. The minimum front yard for each manufactured or mobile home shall be fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway. A front yard shall be measured from the right-of-way line of any public street or from a point which is twelve (12) feet from the centerline of any private street providing access to the mobile home lot. For developed areas, as defined in this Ordinance, the minimum front yard shall be the average of the front yards, provided that no front yard shall be less than twenty (20) feet. A front yard may contain the vehicle parking spaces required for each mobile home lot.
4. The minimum side yard for each manufactured or mobile home or addition thereto shall be five (5) feet.
5. The minimum rear yard shall be fifteen (15) feet.
6. Each manufactured home or mobile home lot shall be served by a hard surfaced street at least twenty four (24) feet in width. Any dead end street shall be provided with a hard surfaced turn-around at least sixty (60) feet in diameter.
7. Municipal water and sewage utilities shall be provided to each lot. The water supply shall be sufficient to provide water for domestic consumption and adequate flow for fire protection. Fire hydrants shall be installed so that no lot is more than one hundred fifty (150) feet from a fire hydrant measured along the streets on the perimeter or within the mobile home park or court.

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

524.03 Manufactured Home - Mobile Home Park / Court Plan Requirements

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

1. The legal description and area of the land to be included in the park or court.

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

524.04 Manufactured Home - Mobile Home Subdivision

The following minimum requirements shall apply to any manufactured home - mobile home subdivision developed after the effective date of this Ordinance and to any expansion of any manufactured home - mobile home subdivision already existing as of the effective date of this Ordinance:

1. A manufactured home or mobile home subdivision shall have an area of not less than two (2) acres.
2. Each lot provided for manufactured home or mobile home placement, or site-built home shall have an area of not less than six thousand (6,000) square feet and a minimum width of fifty (50) feet, except that any lot to accommodate a double-wide mobile home shall have a minimum lot width of seventy (70) feet.
3. The minimum front yard for each manufactured or mobile home shall be fifty (50) feet from the right-of-way line of a roadway designated on the City's Major Street Plan as an Arterial roadway and twenty (20) feet from the right-of-way line of a roadway designated as a Collector, Local or frontage roadway. A front yard shall be measured from the right-of-way line of any public street or from a point which is twelve (12) feet from the centerline of any private street providing access to the mobile home lot. For developed areas, as defined in this Ordinance, the minimum front yard shall be the average of the front yards, provided that no front yard shall be less than twenty (20) feet. A front yard may contain the vehicle parking spaces required for each mobile home lot.
4. The minimum side yard for each manufactured home or mobile home or addition thereto shall be five (5) feet.
5. The minimum rear yard shall be fifteen (15) feet.
6. Each manufactured home or mobile home lot shall be served by a dedicated public street developed in accordance with the standards set forth in the City's Subdivision Regulation Ordinance.
7. Municipal water and sewage utilities shall be provided to each lot. The water supply shall be sufficient to provide water for domestic consumption and adequate flow for fire protection. Fire hydrants shall be installed so that no lot is more than one hundred fifty (150) feet from a fire hydrant measured along the streets on the perimeter or within the mobile home park or court.
8. Each lot shall be provided with a minimum of two (2) off-street parking spaces. Parking spaces and

walkways connecting the parking spaces to the manufactured home or mobile home shall be hard surfaced.

9. Street lighting within and on the perimeter of any manufactured home - mobile home subdivision shall be in a manner equivalent with that required for other residential subdivisions within the City.
10. The developer of the manufactured home - mobile home subdivision shall establish restrictive covenants which prohibit storage of any materials, equipment, or trash receptacles, except licensed, operable vehicles, outside or underneath any manufactured home or mobile home unless such materials are stored in an enclosed building or inside an solid fence with a minimum height of six (6) feet.
11. The developer of the manufactured home - mobile home subdivision shall establish restrictive covenants which require that each manufactured home or mobile home located in the mobile home subdivision shall be completely skirted.
12. Not less than one reinforced storm shelter shall be provided for use by occupants of the manufactured home - mobile home subdivision in the event of hazardous storms. Such shelter shall be of adequate size and capacity to safely house all occupants in the mobile home subdivision and shall provide at least ten (10) square feet of floor space for each person utilizing an average of two and one-half (2 ½) persons per mobile home. Such storm shelter shall be located near the center of the mobile home subdivision to provide the shortest possible distance between all lots within the subdivision and the developer shall make provisions for a homeowner's association with assessment authority to provide sufficient funds with which the lot owners can properly maintain such storm shelter.

524.05 Manufactured Home - Mobile Home Subdivision Requirements

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

SECTION 525 OCCUPANCY OF BASEMENTS AND CELLARS

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

SECTION 526 OTHER GENERAL BUSINESS STANDARDS

Any business or industrial use shall comply with the following general business standards:

1. No music or audio advertising shall be permitted on the exterior of any business premises, except that music may be permitted on the exterior of business enterprises during holiday seasons or special events, provided that the number of special events shall not exceed two (2) per year and that the level of amplification of such music or advertising shall not create an annoyance or nuisance to nearby businesses or other uses.
2. Each business shall provide adequate refuse containers for waste produced on the premises. Any waste container located on the exterior of a building, which is larger than six (6) cubic yards in capacity, shall be enclosed in an opaque fence or walled area and said fence or wall shall be sufficient height to hide said refuse container, but shall exceed six (6) feet in height.
3. No strobe or lighting utilizing rotating beacons or an attracting device of the type used by emergency vehicles as emergency or warning lights shall be permitted on the exterior of any building.

SECTION 527 WIND ENERGY INSTALLATIONS

In all applicable zoning districts, a conditional use may be granted to allow wind energy systems, including such devices as wind charger, windmill or wind turbine, subject to the regulations set forth in this Section.

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- 527.01 SMALL WIND ENERGY SYSTEMS – INTENT OF REGULATIONS: It is the intent 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.
- 527.02 DEFINITIONS: The following are defined for specific application of this Section.
1. SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than twenty five (25) kW and which is intended to primarily reduce on-site consumption of utility supplied power.
 2. TOWER HEIGHT: The height above grade of the tower, excluding the rotor blades.
- 527.03 REQUIREMENTS: Small wind energy systems shall be a permitted use within the applicable zoning districts, subject to the requirements set forth below:
1. Tower Height: For property sizes less than one (1) acre the maximum tower height shall be eighty (80) feet. For property sizes greater than one (1) acre the maximum tower height shall be unrestricted, except as imposed by the limitations set forth in the Section 506 of this Resolution.
 2. Setbacks: No wind generation tower shall be located closer to a neighboring residential dwelling not on the same premises as the tower than a distance equal to the height of the tower. No part of the wind energy system structure, including guy-wire anchors, may extend closer than five (5) feet to the property lines of the installation site.
 3. Noise: Any noise produced by small wind energy systems shall not exceed sixty (60) dBA, as measured at the closest inhabited residential dwelling not on the same premises as the small wind energy system. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
 4. Compliance with Codes: All applications for small wind energy systems shall include standard drawings of the wind turbine structure, including the tower base and footings, as well as an engineering analysis of the tower showing compliance with state and any other applicable building codes of the local governing body having jurisdiction, certified by a professional engineer licensed and certified in the State of Nebraska. Such certification of code compliance may be supplied by the manufacturer.
 5. Compliance with airport hazard restrictions set forth in Section 506 of this Ordinance. Small wind energy systems shall comply with all applicable FAA regulations, including any necessary approvals for installations near any airport.
 6. Compliance with Electrical Codes: All applications for a small wind energy system shall include a line drawing of the electrical components in sufficient detail to allow for determination of compliance with any electrical codes of the local governing body having jurisdiction and /or the National Electrical Code. Such certification of compliance may be supplied by the manufacturer.
- 527.04 COMMERCIAL / UTILITY GRADE WIND ENERGY SYSTEMS: It is the intent of this regulation to promote the safe, effective and efficient use of commercial / utility grade wind energy systems within Holt County, Nebraska.
- 527.05 DEFINITIONS: The following are defined for the specific application in this Section:
1. AGGREGATE PROJECT: A project or projects that is / are developed and operated in a coordinated fashion, but which have multiple entities separately owning one (1) or more of the individual wind

energy conversion system (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 aggregate project.

2. **COMMERCIAL WIND ENERGY CONVERSION SYSTEM:** A wind energy conversion system of equal to or greater than twenty five (25) kW in total name plate generating capacity.
3. **FALL ZONE:** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of structural failure. This area is less than the total height of the tower.
4. **FEEDER LINE:** Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the wind energy conversion system.
5. **METEOROLOGICAL TOWER:** A tower which is erected primarily to measure wind speed and direction 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.
6. **PUBLIC CONSERVATION LANDS:** Land owned in fee title by State or Federal Government agencies and managed specifically for conservation purposes, including but not limited to wildlife management areas, parks, wildlife refuges and waterfowl production areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations and private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
7. **ROTOR DIAMETER:** The diameter of the circle described by the moving rotor blades.
8. **SUBSTATION:** Any electrical facility to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand volts (35kV) for interconnection with high voltage transmission lines.
9. **TOTAL HEIGHT:** The highest point, above ground level, reached by a rotor tip or any other part of the wind energy conversion system.
10. **TOWER:** The vertical structure that support the electrical, rotor blades or meteorological equipment.
11. **TOWER HEIGHT:** The total height of the wind energy conservation system exclusive of the rotor blades.
12. **TRANSMISSION LINE:** The electrical power lines that carry voltages of at least sixty-nine thousand volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supply electrical energy to retail customers.
13. **WIND ENERGY CONVERSION SYSTEM:** An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to 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.
14. **WIND TURBINE:** 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.

- 527.05 COMMERCIAL / UTILITY GRADE WIND ENERGY CONVERSION SYSTEMS - CONDITIONAL USE APPLICATION REQUIREMENTS: Aggregate projects may jointly submit a single application and be reviewed under a single application fee and joint proceedings including notices, public hearings, reviews and appropriate approvals. All applications for commercial / utility grade wind energy conversion systems shall include all of the following information:
1. The name(s) , address(es) and telephone number(s) of the project applicant(s)
 2. The name, address and telephone number of the project owner
 3. The legal description and address of the project
 4. A description of the project, including the number, type, name plate generating capacity, tower height, rotor diameter and total height of all wind turbines and means of interconnecting with the feeder lines.
 5. Site layout including the location of property lines, wind turbines, electrical grid and all related accessory structures drawn to scale and indicating distances.
 6. Certification by an Engineer competent in disciplines of wind energy conversion systems
 7. Documentation of land ownership or legal control of the property included in the application
 8. The latitude and longitude of individual wind turbines and an area or zone in close proximity indicating compliance with setback requirements.
 9. A United States Geological Survey (USGS) topographical map or map with similar data, of the property and surrounding area, including any wind energy conversion system not owned by the applicant within ten (10) rotor distances of the proposed wind energy conversion system.
 10. A scaled map indicating the locations of any wetlands, scenic and natural areas (including bluffs) within one thousand three hundred twenty feet (1,320') of the boundaries of the proposed wind energy conversion system.
 11. An acoustical analysis that certifies that the noise limitations of the regulations will be complied with.
 12. Written evidence that there will be no interference with any commercial and / or public communication towers or systems.
 13. A written decommissioning plan meeting the requirements of this regulation.

527.06 PROJECT STANDARDS, REQUIREMENTS AND LIMITATIONS: The following standards, requirements and limitations shall apply to all commercial / utility grade wind energy conversion systems:

1. SETBACKS: All towers shall comply to the following setback requirements:

| NEIGHBORING USES | WIND TURBINE | WECS WIND TURBINE | METEROLOGICAL TOWER |
|---------------------|-----------------------------|---------------------------|------------------------|
| | Non-commercial | Commercial / Utility WECS | |
| Property Lines..... | 1.1 times total height..... | 1/2 rotor diameter..... | 1.1 times total height |

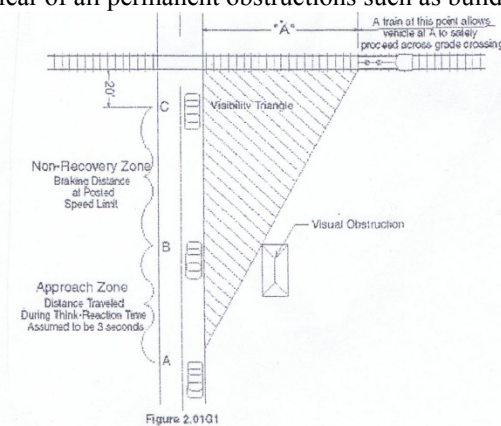
| | | | |
|--------------------------------------------------|-----------------------------|----------------------------------------------------|------------------------|
| Neighboring Dwelling..... | 1.1 times total height..... | 1,000 feet..... | 1.1 times total height |
| Road Rights-of-Way*..... | 1.1 times total height..... | 1/2 rotor diameter..... | 1.1 times total height |
| Other Rights-of-Way..... | 1.1 times total height..... | 1/2 rotor diameter..... | 1.1 times total height |
| Public Conservation Lands..... | 600 feet..... | 1.1 times rotor blade length plus 100 feet..... | 600 feet |
| Wetlands, USFW types III, IV and V..... | NA..... | 600 feet..... | 600 feet |
| Other structures not on applicant's site..... | NA..... | 1.1 times total height..... | 1.1 times total height |
| River or other Bluffs over 15 feet..... | NA..... | 1,320 feet..... | NA |

* The setback shall be measured from any future rights-of-way, if planned change or expanded right-of-way is known.

2. SAFETY AND DESIGN STANDARDS: All towers shall comply with the following safety and design standards:
 - A. Clearance of rotor blades or airfoils must maintain a minimum of twelve (12) feet of clearance between the lowest point and the ground.
 - B. All commercial / utility grade WECS shall have a sign or signs posted on each tower, transformer and substation warning of high voltage. Other signs shall be posted on the premises with emergency contact information.
 - C. All wind turbines which are part of a commercial / utility WECS shall be installed with a tubular, monopole type tower.
 - D. All wind turbines and towers that are part of a commercial / utility WECS shall be white, grey or another non-obtrusive color. Rotor blades or airfoils may be black to facilitate deicing. All finishes shall be matte or non-reflective.
 - E. Lighting, including intensity and frequency of strobe, shall adhere to, but not exceed requirements established by the FAA permits and regulations. Red lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
 - F. All communications and feeder lines associated with a commercial / utility WECS shall be buried. Where obstacles to buried lines create a need to go above ground, such lines shall be placed above ground only to avoid the obstacle. All distribution and / or transmission lines outside of the project distribution system may be above ground.
 - G. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as oil and lubricants, shall be removed from the project site and disposed of in accordance with all applicable local, state and federal regulations.
 - H. A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City Council outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within one hundred eighty (180) days of discontinuation of use, provided that the City Council may grant an extension of time if proof of weather related delays is presented and accepted.

- I. Each commercial / utility WECS shall prepare a decommissioning plan outlining the anticipated means and costs of removing the WECS at the end of their serviceable life or upon being a discontinued use. The cost estimates shall be made by a professional engineer or contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning such uses. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
- J. No commercial / utility WECS shall exceed a noise level exceeding fifty (50) dBA at the nearest structure or use occupied by human beings.
- K. The WECS shall minimize or mitigate interference with electromagnetic communications such as radio, telephone, microwaves or television signals caused by an WECS. The project owner shall notify all communication tower owners / operators within five (5) miles of the proposed WECS location upon application for a conditional use.
- L. The applicant shall, in coordination with representatives from the City of O’Neill, Holt County and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and /or equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The owner of the WECS shall be responsible for restoring the roads, streets and bridges to pre-construction conditions.
- M. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation and maintenance of the WECS.
- N. The applicant shall submit evidence that any applicable permit application has been filed with the Federal Aviation Administration and the Federal Communications Commission where applicable.

SECTION 528 NEW RAILROAD CROSSING SITE DISTANCE RESTRICTIONS: For any new public highway - rail grade crossings the minimum site distances shall be determined according to the following Table. The site triangle must be clear of all permanent obstructions such as buildings, structures or topography.



Required Design Site Distance for Combinations of Highway and Train Vehicle Speeds

| Train Speed | Highway Speed (mph) |
|-------------|---------------------|
| | |

| | 0 | 10 | 20 | 30 | 40 | 50 | 60 | 70 |
|----|--------------------------------------------------------------|------|-----|-----|-----|-----|------|------|
| | Distance Along Railroad From Crossing "A" (measured in feet) | | | | | | | |
| 10 | 162 | 126 | 94 | 94 | 99 | 107 | 118 | 129 |
| 20 | 323 | 252 | 188 | 188 | 197 | 214 | 235 | 258 |
| 30 | 484 | 378 | 281 | 281 | 295 | 321 | 352 | 387 |
| 40 | 645 | 504 | 376 | 376 | 394 | 428 | 470 | 516 |
| 50 | 807 | 630 | 470 | 470 | 492 | 534 | 586 | 644 |
| 60 | 967 | 756 | 562 | 562 | 590 | 642 | 704 | 774 |
| 70 | 1129 | 882 | 656 | 656 | 684 | 750 | 822 | 904 |
| 80 | 1290 | 1008 | 752 | 752 | 788 | 856 | 940 | 1032 |
| 90 | 1450 | 1134 | 844 | 844 | 884 | 964 | 1056 | 1160 |
| | Distance Along Highway From Crossing B (measured in feet) | | | | | | | |
| | 20 | 65 | 125 | 215 | 330 | 470 | 640 | 840 |

SECTION 528 PROPANE TANK STANDARDS

Propane supply tanks, except bulk storage tanks as defined in Section 303.22 of this Ordinance, shall be permitted in any zoning district provided the tank and its location complies with the following limitations and requirements:

1. The supply tank shall not exceed five hundred gallon capacity,
2. The supply tank shall be located in a side or rear yard, be located relative to lot lines and buildings to comply with the National Fire Protection Agency (NFPA) Code 58 and be located relative to the driveway to allow access to such tank by the supply truck,
3. The supply tank shall not be located in any drainage or utility easement,
4. The supply tank may be located above ground or be buried. If above ground such tank shall be screened from view from the street and neighboring properties by a screen fence which is at least six (6) inches taller than the height of the highest point of the fill point on the tank. If such tank is buried there is no screening requirement.

ARTICLE 6: NON-CONFORMING USES

SECTION 601 INTENT

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

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

SECTION 602 HARDSHIP

To avoid any undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building or structure for which a zoning permit has been lawfully issued or for which actual construction has been lawfully initiated prior to the effective date of the Ordinance or amendment thereto where actual construction activity has been carried on diligently. Actual construction is defined to be the placing of substantial construction materials, other than earth, in a permanent position and fastened in a permanent manner. "Carried on diligently" shall be defined to mean that construction has been on-going except through the winter months, defined as being November 1 through April 1 of the following year.

SECTION 603 EXCEPTIONS

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

1. Such residential use shall comply with Section 602 of this Ordinance.
2. This provision shall not be construed to include more than one (1) use on a lot and shall be applicable so long as such use remains otherwise lawful.
3. Any such enlargement or alteration shall not increase the non-conformity of the dwelling. Further, an extension of any building wall which is non-conforming by reason of encroachment on a front, side or rear yard shall not be considered an increase in non-conformity and shall be permitted so long as such extension does not further reduce any yard encroachment.

SECTION 604 NON-CONFORMING LOTS OF RECORD

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

602.02 If two (2) or more lots or combinations of lots or portions of lots with continuous frontage and in the same

ownership are of record on the date of adoption of this Ordinance or applicable amendment thereto, and if all or part of the lots do not comply with the lot width and area requirements of the applicable zoning district, the lots or portions or lots involved shall be considered to be an undivided parcel for the purposes of this Ordinance and

no portion of such lot or portions of lots shall be used or sold in a manner which would diminish compliance with the minimum lot width and area requirements of the applicable zoning district.

SECTION 605 NON-CONFORMING USES OF LAND WITH MINOR STRUCTURES

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

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

SECTION 606 NON-CONFORMING STRUCTURES

604.01 Where a lawful structure exists on the date of adoption of this Ordinance or applicable amendment thereto which could not be constructed under the requirements of this Ordinance by reason of restrictions or area, lot coverage, height, yards, location or the lot, or other requirement concerning such structure, such structure may be continued as long as it remains otherwise lawful, provided:

1. No such non-conforming structure may be enlarged or altered in any way which would increase its non-conformity, but any structure or portion thereof may be altered to reduce its non-conformity. An addition to a building which existed as of the effective date of this Ordinance in which said existing building is non-conforming by reason of encroachment on the minimum front, side or rear yard requirement for the zoning district in which it is located shall not be considered to increase its non-conformity and shall be permitted so long as the side or rear yard is not further reduced.
2. When a non-conforming structure, or structure and premises in combination, is discontinued or is abandoned by twelve (12) consecutive months, except when governmental action impedes access to the premises, the structure or structure and land in combination shall not thereafter be used except in conformity with the requirements of this Ordinance.
3. Should such structure or non-conforming portion of such structure be destroyed by any means to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with this Ordinance or applicable amendment thereto.
4. Should such structure be moved for any reason for any distance, it shall conform to the requirements of this Ordinance or applicable amendment thereto at its new location.

SECTION 607 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

605.01 If a lawful use involving individual structures with a replacement cost of more than one thousand dollars (\$1,000.00) or structure of such value and land in combination exists on the effective date of adoption of this

Ordinance or applicable amendment thereto, that would not be permitted in the applicable zoning district, the use may be continued as long as it remains otherwise lawful, provided:

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

SECTION 606 REPAIR AND MAINTENANCE OF NON-CONFORMING STRUCTURES

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

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

SECTION 609 CONDITIONAL USES AND NON-CONFORMING USES

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

607.02 A non-conforming use may be converted to another non-conforming use as a conditional use in accordance with Article 7 of this Ordinance. A conditional use allowing a change from one non-conforming use to another non-conforming use shall remain a non-conforming use.

ARTICLE 7: CONDITIONAL USE PERMITTED BY SPECIAL REVIEW

SECTION 701 GENERAL POWERS

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

SECTION 702 APPLICATION REQUIREMENTS

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

1. A legal description of the property on which the proposed conditional use is requested, including the specific size and dimension of the area on which the proposed conditional use would be located if less than the total property owned by the applicant;
2. The size and locations of all existing and proposed buildings and structures;
3. A detailed description of the use proposed and the activities involved in such use;
4. The location(s) of access to public roadway(s);
5. The type and locations of easements effecting the property;
6. A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;
7. The extent and location of parking, loading, outdoor storage areas and refuse disposal and collection facilities;
8. A description and location of any screen fencing or landscape screening proposed;
9. A description of the size, height and location of any proposed signs;
10. An indication of the land uses on all properties adjoining the property on which the conditional use is proposed;
11. An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;
12. A description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, potential air, water or soil pollution or explosion hazards or other compatibility issue which may result from the proposed use;
13. Any areas on the property subject to flooding or considered to be a wetland.

SECTION 703 PROCEDURE AND PUBLIC HEARINGS

1. **PLANNING COMMISSION PUBLIC HEARING:** For any action on a conditional use application, the City Clerk shall have published a written notice in the legal newspaper of the City at least ten (10) days prior to the date of the Planning Commission meeting at which the conditional use request is scheduled to be heard. Such notice shall state the date, time and place of such public hearing and contain a statement describing the legal description, street address and type of conditional use requested, the name of the person(s) or entity making application for a conditional use and a statement indicating that all interested citizens can attend this public hearing and be heard with regard to this application.
2. **PLANNING COMMISSION REVIEW AND RECOMMENDATION:** The Planning Commission shall hear and review each conditional use application within thirty (30) days of the date that a complete application for a conditional use is submitted to the Zoning Administrator. The Planning Commission shall hear the applicant's petition and all comments by the public and shall review such application with regard to the factors, issues, requirements and limitations set forth in Section 704 of this Ordinance.

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

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

3. **CITY COUNCIL PUBLIC HEARING:** For any action on a conditional use application, the City Clerk shall have published a written notice in the legal newspaper of the City at least ten (10) days prior to the date of the City Council meeting at which the conditional use request is scheduled to be heard. Such notice shall state the date, time and place of such public hearing and contain a statement describing the legal description, street address and type of conditional use requested, the name of the person(s) or entity making application for a conditional use and a statement indicating that all interested citizens can attend this public hearing and be heard with regard to this application.
4. **CITY COUNCIL REVIEW AND ACTION:** The City Council shall hear, review and decide each conditional use application at its next regular meeting after hearing and recommendation on each conditional use application by the Planning Commission. The City Council, at public hearing, shall:
 1. consider and review the application,
 2. consider the comments of all interested citizens,
 3. review and consider the recommendations of the Planning Commission, and
 4. consider the issues and factors set forth in Section 704 of this Ordinance.

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

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

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

SECTION 704 RULES GOVERNING CONSIDERATION AND AUTHORIZATION OF CONDITIONAL USES

1. The Planning Commission and City Council, in considering an application for a conditional use, shall prior to any action on a conditional use application, consider the definition of "conditional use" as defined in Section 303.41 of this Ordinance and which reads as follows:

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

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

1. The location of all ingress and egress points to the property on which the conditional use is proposed to be located with particular reference to pedestrian and vehicle safety and convenience, traffic flow and control and access by emergency vehicles.
2. The impact of off-street parking and loading areas and related traffic, noise, glare and other impact on adjoining properties and the neighborhood in general.
3. The location and adequacy of refuse collection and utility locations and easements.
4. The adequacy of surface drainage provisions proposed and the impact of surface drainage on neighboring properties and existing drainage facilities.
5. The adequacy of landscape screening or buffering proposed or the need for such screening or buffering to protect abutting properties.
6. The appropriateness of the location, size and height of signs and exterior lighting with regard to impact on abutting properties and the neighborhood in general.
7. The compliance with yard and open space requirements of the applicable zoning district.
8. The overall compatibility of the proposed conditional use with abutting properties and the neighborhood in general, the possible impacts on property values in the area of the proposed conditional use and the consistency of the proposed use with the City's Comprehensive Plan.
9. The possible long-term impacts on and the long-term compatibility of the proposed conditional use with abutting properties and the neighborhood and community in general.
10. Other factors, peculiar to the conditional use requested which could negatively impact abutting properties, the neighborhood or the community in general.

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

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

SECTION 705 EXPIRATION OF CONDITIONAL USES

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

ARTICLE 8: BOARD OF ADJUSTMENT

SECTION 801 CREATION, TERMS OF OFFICE, MEETINGS, RULES

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

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

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

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

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

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

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

SECTION 802 POWERS AND DUTIES

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

802.01 POWERS AND JURISDICTION RELATING TO ADMINISTRATIVE REVIEW

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

1. The Board of Adjustment shall hear and determine appeals from any requirement, interpretation or decision of the Zoning Administrator. Upon filing of an appeal, the Board shall fix a time and place for hearing of the appeal. Public notice of the time, place and subject of such hearing shall be published in the legal newspaper of the City at least ten (10) calendar days prior to the date fixed for such hearing. A copy of such notice shall be mailed to the person or persons who filed the appeal.

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2. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau affected by any decision of the Zoning Administrator regarding the interpretation and enforcement of this Ordinance. Such appeal shall be filed within a reasonable period of time, as provided by the rules of the Board, by filing a notice of appeal with the Zoning Administrator and the Board specifying the grounds for such appeal and such notice shall be accompanied by payment of any fee established for filing of such appeal. The Zoning Administrator shall provide all papers constituting the applicable records of the Administrator to the Board on or before the date of the hearing set for hearing the appeal.
 3. An appeal stays all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Board, after a notice of appeal has been filed, that by reason of facts in such case, that a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed, except by a restraining order which may be granted by the Board or Court.

802.02 POWERS AND JURISDICTION RELATING TO MAP INTERPRETATION

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

802.03 POWERS AND JURISDICTION RELATING TO VARIANCES

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

1. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of each specific piece of property, the strict application of any applicable provision of this Ordinance would result in peculiar or exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, the Board of Adjustment shall have the power to authorize a variance from the strict application of such applicable provision 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. No such variance shall be authorized by the Board unless and until it finds that:
 - A. the strict application of the applicable provisions of this Ordinance would produce undue difficulty or hardship,
 - B. such difficulty or hardship is not generally shared by other properties in the same zoning district and the same vicinity,
 - C. the authorization of a variance shall not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the authorization of a variance,
 - D. the authorization of a variance is based upon reasons of demonstrable and exceptional difficulty or hardship, as distinguished from a variance for purposes of the property owner's convenience, profit, or caprice,
 - E. the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

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2. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted to the Zoning Administrator. Such application shall be in the form prescribed by the Board and the applicant shall identify the special conditions and circumstances which are peculiar to the land, the structure(s) or building involved which, in the opinion of the applicant, are not applicable to other lands, structures, or buildings in the same zoning district. The applicant shall also 1) state the reason(s) that a literal enforcement of the applicable provision(s) of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance, 2) indicate why the conditions or circumstances related to such variance do not result from the action of the applicant, and 3) the reason(s) that granting of the requested variance will not confer any special privilege on the applicant that is denied by the provisions of this Ordinance to other land, structures, or buildings in the same zoning district.
 3. A non-conforming use of neighboring land, structure(s) or building(s) in the same zoning district, and permitted or non-conforming uses of land, structure(s) or building(s) in other zoning districts shall not be considered grounds for difficulty or hardship and thus the authorization of a variance.
 4. Upon filing of a variance application with the Zoning Administrator, notice of public hearing shall be published in the same manner as set forth in Subsection 801.02 above and the Board of Zoning Adjustment shall conduct a public hearing. Any party may appear in person or be represented by agent or attorney. Upon closing of such public hearing the Board shall take any of the following actions:
 - A. Continue the application for a specified period of time to allow the Board to gather more information in regard to the variance application. In acting to continue such application the Board shall set a specific date, time and place where it shall take further action of continued application,
 - B. Deny the application for a variance and state the reason(s) for such denial,
 - C. Authorize a variance, provided that the Board shall make written findings that particular reasons set forth in the application justify the authorization of a variance and that the variance is the minimum variance that will make possible the reasonable use of the land, structure(s) or building(s) and shall make written findings that the authorization of said variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to abutting property, the property in the vicinity of the subject property or be otherwise detrimental to the public welfare.
 5. In authorizing any variance, the Board of Adjustment may prescribe any conditions and safeguards it believes are appropriate to protect abutting property, property in the vicinity and the public in general. Violation of such conditions and safeguards by the applicant shall be deemed a violation of this Ordinance and punishable under Section 1102 of this Ordinance.
 6. Under no circumstances shall the Board of Zoning Adjustment authorize a variance to allow a use not permitted under the regulations of any zoning district or any use expressly or by implication prohibited by the regulations of any zoning district.

SECTION 803 BOARD OF ADJUSTMENT HAS POWERS OF ZONING ADMINISTRATOR UPON APPEAL

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

SECTION 804 APPEALS FROM DECISIONS OF THE BOARD OF ADJUSTMENT

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, or any taxpayer, or any officer, department, board or bureau of the City may present to the District Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality as provided for in law. Such petition must be presented to the Court within fifteen (15) days after the filing of the decision of the Board of Zoning Adjustment in the Office of the City Clerk.

ARTICLE 9: ADMINISTRATIVE PROCEDURE AND ENFORCEMENT OF THIS ORDINANCE

SECTION 901 ORGANIZATION

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

SECTION 902 AUTHORITY

902.01 PLANNING COMMISSION

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

902.02 BOARD OF ZONING ADJUSTMENT

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

902.03 ZONING ADMINISTRATOR

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

SECTION 903 RESPONSIBILITIES

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

SECTION 904 ZONING PERMITS REQUIRED

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

902.06 APPLICATION FOR ZONING PERMIT

1. An application for a zoning permit shall be accompanied by plans, drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of buildings or structures already existing on said lot, if any, the location and dimensions of the proposed building(s) or addition or expansion thereof. All dimensions relating to lot dimensions shall be provided by the applicant and the applicant shall assume the liability with regard to any errors in said dimensions. The applicant may request the assistance of the Zoning Administrator in the location of lot pins to verify lot line locations, provided that the Zoning Administrator shall not be responsible for establishing lot corner locations where lot pins are missing and shall not be responsible for reestablishment of any missing lot pins.

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2. The application shall include such other information as may be required by the Zoning Administrator, including the identification of building alterations, existing and proposed uses of the building(s) and land, the number of families, housekeeping units, or rental units the building is designed for, conditions existing on the lot, easement locations, and such other matters as may be necessary to determine conformance of the proposed building, structure or use with this Ordinance and its enforcement.
 3. One (1) copy of any approved zoning permit, together with any conditions of such permit shall be provided to the applicant by the Zoning Administrator. If a application for a zoning permit is denied, the Zoning Administrator shall indicate to the applicant the reason(s) for such denial. The Zoning Administrator shall maintain a permanent record of all applications for zoning permits and maintain One (1) copy of each permit which is approved. The issuance of a zoning permit shall, in no case, be construed by the applicant or any other person or persons as waiving any requirement of this Ordinance.

SECTION 905 EXPIRATION OF ZONING PERMIT

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

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

SECTION 907 SCHEDULE OF FEES AND CHARGES

The fees and charges for a rezoning application, conditional use application, variance application, zoning permit, Certificate of Zoning Compliance, or such other permit as may be utilized under the terms of the Ordinance shall be as established by the City Council and shall be paid by the applicant at the time of application. A schedule of fees and charges shall be posted in the Office of the Zoning Administrator and may be amended without public by action of the City Council. Until all applicable fees and charges are paid, no action shall be taken on any permit or certificate.

ARTICLE 10: AMENDMENT

SECTION 1001 GENERAL REQUIREMENTS

The City Council may from time to time supplement, change, or generally revise the zoning district boundaries and regulations contained in this Ordinance by amendment. A proposal for any such amendment may be initiated by the City Council, the Planning Commission, or upon application of the owner of property affected by this Ordinance. A filing fee, as established by the City Council, shall be required for each application to be considered by the Planning Commission and City Council. A proposal for amendment initiated by the Planning Commission or City Council shall not require payment of any fee.

SECTION 1002 SUBMISSION OF PROPOSED AMENDMENT TO PLANNING COMMISSION

1002.01 All proposed amendments shall first be submitted to the Planning Commission for review, comment and recommendation. Public notice of the time and place of a public hearing shall be given by publication thereof in the legal newspaper of the City at least Ten (10) days prior to such hearing. Such notice shall contain a statement regarding the proposed amendment in regulations or boundaries of any zoning district. In addition to the publication of notice prescribed above, a notice shall be posted in a conspicuous place on or near the property on which amendment action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1 ½) inches in height. Such posted notice shall be so placed upon the premises that it is easily visible from the street nearest the premises and shall be so posted at least ten (10) days prior to the date of such public hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice. If the record owner(s) of any lots included in such proposed amendment be non-residents of the City, a written notice of such hearing shall be mailed by first class mail to such owner(s), addressed to their last known address at least ten (10) days prior to the date of such public hearing.

1002.02 At the option of the City Council, in place of the posted notice, the owners and occupants of the real estate to be affected by any proposed amendment and all owners and occupants of all real estate located within three hundred (300) feet of the real estate affected by the proposed amendment shall be mailed a written notice of the public hearing by first class mail at least ten (10) days prior to such public hearing.

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

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

SECTION 1003 PLANNING COMMISSION CONSIDERATION OF AMENDMENTS

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

SECTION 1004 CITY COUNCIL CONSIDERATION AND ACTION ON AMENDMENTS

Upon receipt of a recommendation from the Planning Commission regarding any amendment, the City Council shall give public notice of a public hearing in the same manner as prescribed in Section 1002 above. The City Council may approve or reject the recommendations of the Planning Commission with regard to any amendment. If the Commission should fail to submit a recommendation, the City Council may take such action as it deems appropriate regarding such amendment. If any amendment which is approved by the City Council affects the boundaries of any zoning district, the ordinance adopted by the City Council shall define the change in the boundaries of the zoning district, shall order that the Official Zoning Map be modified to reflect such amendment, and shall amend the Article and Section of this Ordinance, incorporating the same and reincorporating the Official Zoning Map.

SECTION 1005 PROTESTS

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

ARTICLE 11: COMPLAINTS, VIOLATIONS, PENALTIES AND REMEDIES

SECTION 1101 COMPLAINTS REGARDING VIOLATIONS

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

SECTION 1102 PENALTIES FOR VIOLATION

The owner(s) or agent of a building, structure or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant or an entire building or entire premises in or upon which such violation shall exist, or the agent, architect, engineer, 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 a violation shall exist shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100.00) for any one offense recoverable with costs. Each and every day that such violation continues after notification of any violation shall constitute a separate offense. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the proper local authorities of the City of O'Neill, Nebraska, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or prevent any illegal act, conduct of business or use in or about such premises.

SECTION 1103 REMEDIES

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

ARTICLE 12: LEGAL STATUS PROVISIONS

SECTION 1201 SEVERABILITY

Should any Article, Section, Subsection or provisions of this Ordinance be declared by the Court to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 1202 PURPOSE OF CATCH HEADS

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

SECTION 1203 REPEAL OF CONFLICTING ORDINANCES

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

SECTION 1204 EFFECTIVE DATE

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

PASSED AND APPROVED THIS _____ DAY OF _____, 20_____.

Mayor

Attest: City Clerk