

**CITY OF FULLERTON  
NANCE COUNTY, NEBRASKA  
ZONING ORDINANCE**

**ORDINANCE NUMBER**

**2009-12**

**ADOPTED BY THE CITY OF FULLERTON, NEBRASKA**

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**ARTICLE 1: TITLE, PURPOSE, AND LEGAL STATUS**

**Section 1.01 Title**

This Ordinance shall be known and may be referred to as the Zoning Ordinance of the City of Fullerton, Nebraska.

**Section 1.02 Purpose**

This Ordinance has been prepared in accordance with a Comprehensive Plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

**Section 1.03 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the City of Fullerton, and within the territory beyond corporate limits as now or hereafter fixed, as established on the Official Zoning Map.

**Section 1.04 Minimum Requirements**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

**Section 1.05 Zoning Affects Every Building and Use**

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

**Section 1.06 Relationship to Comprehensive Plan**

This zoning ordinance is designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

**Section 1.07 Separability**

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**Section 1.08 Purpose of Catch Heads**

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

**Section 1.09 Repeal of Conflicting Ordinances**

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

**Section 1.10 Effective Date**

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

**ARTICLE 2: DEFINITIONS**

**Section 2.01 Rules**

For the purpose of this Ordinance the following rules shall apply:

1. Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
2. The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, Council, commission, trustee, receiver, agent or other representative.
3. The word "shall" is mandatory.
4. The word "may" is permissive.
5. The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
6. The word "Commission" shall refer to the City of Fullerton Planning Commission.
7. The phrase "Zoning Administrator" shall refer to the designated Zoning Administrator for the City of Fullerton.
8. Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
9. The word "Council" shall mean the Fullerton City Council.

**Section 2.02 Abbreviations and Acronyms**

For the purpose of this ordinance, the following abbreviations and acronyms shall have the meaning indicated.

1. AU = Animal Unit
2. CAFO = Confined Animal Feeding Operation
3. FCC = Federal Communication Commission
4. FT = Foot or Feet
5. GIS = Geographic Information System
6. kV = Kilovolt
7. kW = Kilowatt
8. LFO = Livestock Feeding Operation
9. NDA = Nebraska Department of Aeronautics or successor department
10. NDEQ = Nebraska Department of Environmental Quality or successor department
11. NSFM = Nebraska State Fire Marshall or successor department
12. NHHS = Nebraska Department of Health and Human Services or successor department
13. NDOR = Nebraska Department of Roads or successor department
14. ROW= Right-of-Way or Rights-of-Way
15. SF = Square Feet
16. SY = Square Yard
17. USDA = United States Department of Agriculture
18. YD = Yard

**Section 2.03 Definitions**

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

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

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

**ACCESSORY BUILDING or STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

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

**ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.

**ADJACENT** shall mean near, close, or abutting, including property separated by a street or highway.

**ADULT ENTERTAINMENT ESTABLISHMENT** shall mean any business which offers its patrons services, products, or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."

**ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known.

**ALLEY** shall mean a minor public service street or public thoroughfare typically 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street.

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

**ANIMAL UNIT** shall mean a method of comparing the impact of various species of farm animals based upon weight and waste production. One animal unit (AU) equals:

- 1 Cow/Calf combination
- 1 Slaughter, Feeder Cattle;
- 0.5 Horse;
- 0.7 Mature Dairy Cattle;
- 2.5 Swine (55 pounds or more);
- 25 Weaned Pigs (less than 55 pounds);
- 2 Sows with Litters;
- 10 Sheep;
- 100 Chickens;
- 50 Turkeys;
- 5 Ducks.

**ANIMAL, VICIOUS** shall mean any dangerous dog, or any non-farm/non-domestic animal, or wild animal that may be considered wild and/or dangerous. Such vicious animals shall include but not be limited to wolf hybrids and pitbulls.

**ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of telecommunication signals.

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

**APARTMENT** shall mean a room or a suite of rooms within a multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping units. Also see "Dwelling Units."

**ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items.

**BAR or TAVERN** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises, which may also provide entertainment or dancing.

**BASEMENT** shall mean the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.

**BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided for compensation, and the owner or operator lives on premises.

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

**BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not the interest of the immediate neighborhood or a small group of citizens.

**BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, City-County boundaries, or adjoining property lines.

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

**BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use, which produces no more than 10,000 barrels of beer or ale annually. The area used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.

**BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 100 feet in height shall not be considered broadcast towers.

**BUFFER** shall mean an area of land established to separate or protect two incompatible zoning districts or land uses from one another that acts to soften or mitigate the effects of one on the other.

**BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind. Operable and licensed trailers, with wheels, storage trailers and Pods shall not be considered as buildings.

**BUILDING AREA** shall mean the total square footage of the ground areas occupied by all buildings and structures on a lot.

**BUILDING HEIGHT** shall mean the vertical distance measured from the finished grade (or average grade) to the highest point of a roof surface if a flat or shed roof, to the deck line of mansard roofs, and to the average height between the eave and ridge for gable, hip, and gambrel roofs.

**BUILDING SETBACK LINE** shall mean the minimum distance required between any property line and the closest point or outside point of any building or wall of a building or structure.

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

**CHILD CARE** shall mean the provision of care to between four and twelve children under age 13, for on the average of less than 12 hours per day, for compensation, either indirect or direct, on a regular basis, and by a person other than their parents/guardians.

**CHILD CARE CENTER** shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

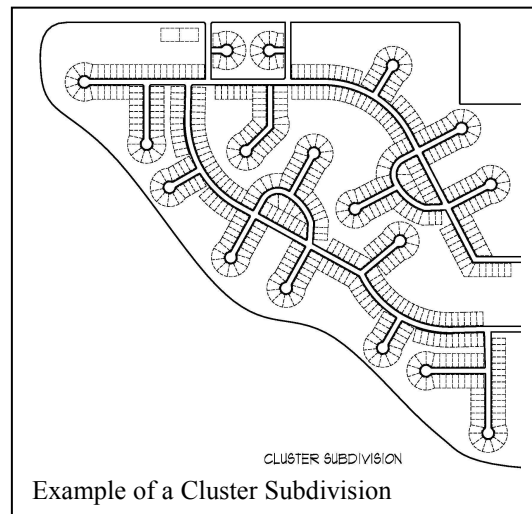
**CLINIC, MEDICAL OR DENTAL** is an organization of specializing physicians and/or dentists who have their offices in a common building, but not including the provision of inpatient care.

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

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

**CODE** shall mean the Municipal Code of the City of Fullerton.

**COLLEGE or UNIVERSITY** shall mean facilities which conduct regular academic instruction at collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions shall confer degrees as a college or university for undergraduate or graduate standing, conduct research, or give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.



**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with any improvements thereon, the use and enjoyment of which are shared by the owners or tenants of the buildings or building sites thereon.

**COMPREHENSIVE PLAN** shall mean the adopted Comprehensive Development Plan of Fullerton, Nebraska.

**CONDITIONAL USE** shall mean a use that would not be appropriate generally throughout the zoning district without restrictions, but which would not be detrimental to the public health, safety, and general welfare if allowed upon compliance with specific conditions.

**CONDITIONAL USE PERMIT** shall mean a permit issued by the City Council that authorizes the permitted to use property of which such use shall run with the property in accordance with the provisions of this Ordinance and any additional conditions required by the permit.

**CONDOMINIUM** shall be as defined in the Nebraska State Statues Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.

**CONFINED ANIMAL FEEDING OPERATION (CAFO)** shall mean facilities for the feeding, farrowing, or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the number of animals maintained exceeds 300 animal units. The confined area shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities, constructed and operated in conformance with applicable county, state, and federal regulations. Two or more CAFO's under common ownership are deemed to be a single CAFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes.



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

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

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

**DENSITY** shall mean the number of dwelling units per acre of land allowable on a given tract or parcel of land.

**DEPARTMENT STORE** shall mean a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and exhibited and sold directly to the customer for whom the goods and services are furnished.

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

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

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

**DISABILITY or HANDICAP** shall mean:

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

Handicap shall not include current, illegal use of or addiction to a controlled substance.

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

**DRAINAGEWAY** shall mean any depression of land serving to give direction to a current of water less than nine months of the year, having a bed and banks; provided, that in the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.

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

**DWELLING** shall mean any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.

**DWELLING, ATTACHED** see "Dwelling, Single-Family Attached."

**DWELLING, DETACHED** shall mean a dwelling which is entirely surrounded by open space on the same lot.

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

**DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure, built after 1980, which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

**DWELLING, MODULAR HOME** shall mean any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. A modular home shall meet the construction criteria defined by the Nebraska State Department of Health and Human Services; those that do not meet the criteria shall be considered a mobile home. A modular home shall be considered a conventional type single-family dwelling.

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

**DWELLING, SINGLE FAMILY** shall mean a building having accommodations for or occupied exclusively by one family, which does not meet the definition of mobile home or manufactured home.

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

**DWELLING, TWO-FAMILY** shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.

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

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

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

**EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the State to exercise zoning and building regulations and is exercising such powers.

**FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.

**FARM** shall mean the use of land, containing at least 20 acres, for profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other similar agricultural or horticultural use, but shall not include the feeding of garbage or offal to swine or other animals.

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

**FARM BUILDING or STRUCTURE** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

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

**FARMSTEAD** shall mean a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other farm building existed at the time of the adoption of this resolution and was used for single-family resident purposes.

**FEED LOT** shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals.

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

1. **FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of fence, 50 percent or more of the surface area in open spaces which affords direct views through the fence.
2. **FENCE, SOLID** shall mean any fence that does not qualify as an open fence.

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

**FLOOR AREA** shall mean the total square footage within the exterior walls of a building or structure.

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

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

**FRONTAGE** shall mean that portion of a lot, parcel, or block which abuts a dedicated public street or highway, but not abutting an alley.

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

**GROUP CARE HOME** shall mean a dwelling for four or more disabled persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential.

**HARD SURFACE** shall mean paved with either asphalt or concrete.

**HOME OCCUPATION** shall mean an "in-home" or "home based" or entrepreneurial business operated within a residential dwelling.

**HOTEL or MOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities.

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

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

*Article 2: Definitions*

**INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which does not have a current state license plate, is disassembled or wrecked in part or in whole, is unable to move under its own power, or is not equipped as required by law for operation upon public streets.

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

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

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

**LIVESTOCK FEEDING OPERATION (LFO)** shall mean facilities for the feeding, farrowing, or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the number of animals maintained exceeds 50 animal units. The confined area shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities, constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent (within 1,320') to each other or if they utilize a common area or system for the disposal of livestock wastes.

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

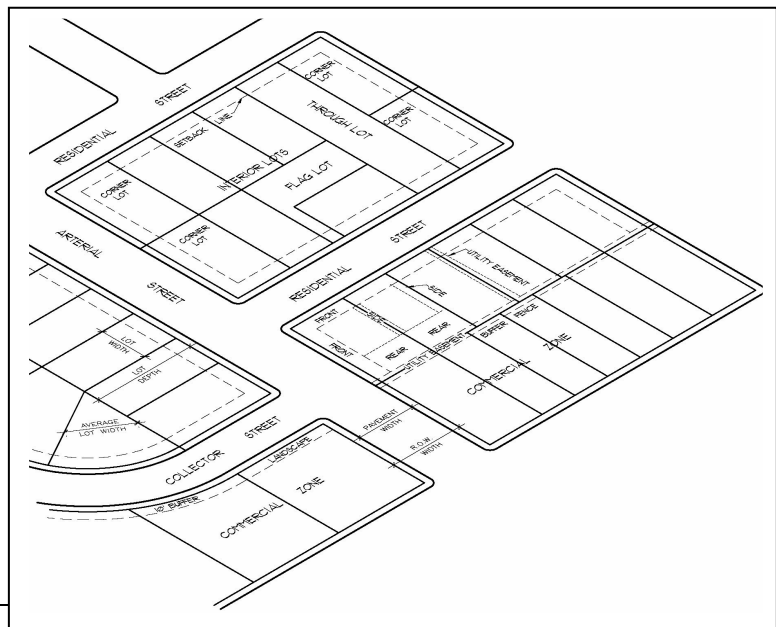
**LONG-TERM CARE FACILITY** shall mean a facility that provides the following services, as such are defined by state law:

1. Nursing facilities
2. Boarding home
3. Adult Care Home
4. Assisted Living Facility
5. Center for the Developmentally Disabled
6. Group Residence
7. Swing Bed
8. Adult Day Care

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

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

**LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is



greater than 135 degrees, the lot shall be considered an "Interior Lot."

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

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

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

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

**LOT LINE** shall mean the property line bounding a lot.

1. **LOT LINE, FRONT** shall mean the property line abutting a street.
2. **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.
3. **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.

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

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

**LOT WIDTH** shall mean the average horizontal distance between side lot lines.

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

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

**MANUFACTURED HOME PARK** shall mean a parcel of land that has been planned and improved for the placement of manufactured housing, placed in bays or spaces that are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

**MANUFACTURED HOME SUBDIVISION** shall mean a subdivision used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

**MINI-STORAGE OR MINI-WAREHOUSE** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

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

**NON-CONFORMING** shall mean a building or use, or portion thereof, which was lawful when established but which does not conform to subsequently established zoning regulations.

**NURSERY** shall mean the use of a premise for the propagation, cultivation, growth, and sale of trees, shrubs, plants, vines, and the like from seed or stock.

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

**OFFICIAL ZONING MAP** shall mean the map delineating the boundaries of zoning districts, officially adopted by the City Council.

**OUTLOT** shall mean an unbuildable lot remnant or parcel of land reserved for open space or future development.

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

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

**PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide a unique and creative arrangement of residential, business, or industrial uses in accordance with an approved development plan.

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

**PRINCIPAL BUILDING** shall mean a building within which the main or principal use of the lot or premises is located. Also, see "Principal Use."

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

**PUBLIC FACILITY** shall mean any building, location, or structure, owned by a public entity such as a library, fire station, school, park, and other similar facilities and uses.

**PUBLIC USE** shall mean a specified activity or area that either through actual public ownership or through dedication of easements allows the general public access and use.

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

**RECREATION FACILITY** shall mean a facility including uses such as game courts and fields, exercise equipment, locker rooms, and other similar facilities.

**RECREATIONAL FACILITY** shall mean a facility used for passive and active recreation, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events, and shall include museums, amphitheaters, race tracks (including all motor powered vehicles), wildlife conservation areas (used for public viewing), and theme parks.

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

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

**RETAIL BIG BOX** shall mean a singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area, typically providing high parking to building area ratios and a regional sales market.

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

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

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

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

**SALVAGE YARD** shall mean businesses engaged in the storage, collection, purchase, sale, salvage, or disposal of machinery, parts and equipment that are a result of dismantling or wrecking, including scrap metals or other scrap materials, with no burning permitted.

**SCHOOL, PRIMARY** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, and secondary levels equivalent to the standards established by the State Board of Education.

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

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

**SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.

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

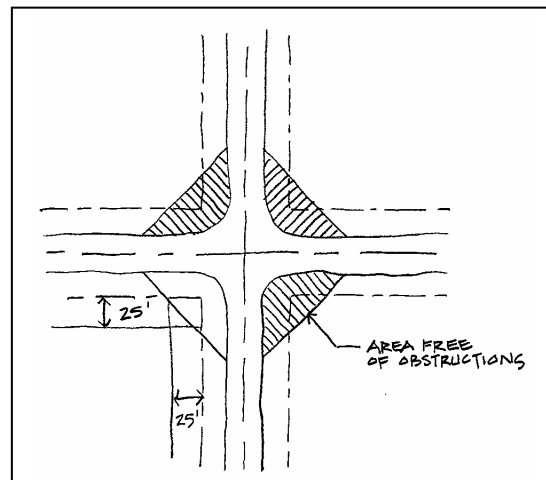
**SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but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

**SETBACK, FRONT YARD** shall mean the line which defines the depth of the required front yard, measured parallel with the right-of-way line.

**SETBACK, REAR YARD** shall mean the line which defines the depth of the required rear yard, measured parallel with the rear property line.

**SETBACK, SIDE YARD** shall mean the line which defines the depth of the required side yard, measured parallel with the side property line, between the front and rear setbacks.

**SIGHT TRIANGLE** shall mean an area at a street intersection, in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets. The sight triangle shall be measured 25 feet from the point of intersection of the front property lines.



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

**SIGN AREA** of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter

signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminate.

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

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

**SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

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

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

**SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

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

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

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

**SIGN, MONUMENT** shall mean a sign mounted directly to the ground with a maximum height not to exceed 10 feet.

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



Sign, Banner



Sign, Monument  
Sign, Electronic Message  
Sign, Flashing



Sign, Billboard  
Sign, Off-Premises



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

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

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

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

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

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



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

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

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



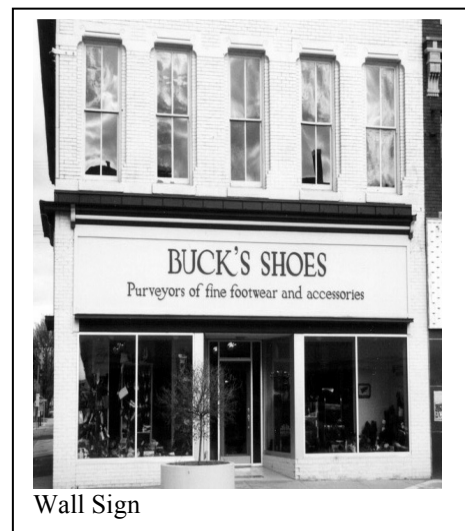
**SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

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

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

**SPECIFIED ANATOMICAL AREAS** shall mean:

1. Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the



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female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when worn, simulates male genitals in a discernibly turgid state.

**SPECIFIED SEXUAL ACTIVITIES** shall mean:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Human genitals in a state of sexual stimulations, arousal, or tumescence.
5. Excretory functions as part of or in connection with any of the activities set forth in (1), (2), (3) or (4) above.

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

**STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff for a brief period and controls runoff flows through slowly releasing runoff over time.

**STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

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

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

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

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

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

**STREET, PRIVATE** shall mean a street or alley owned and maintained by a private party, with an access easement dedicated to the public.

**STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, but not including outdoor areas such as paved patios, walkways, and similar recreation areas.

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

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

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

**TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. Also see “Antenna”.

**TOWNHOUSE** shall mean a series of one-family dwelling units arranged in a group of three or more units attached laterally, and having a fully exposed front and rear wall, located on individual lots.

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

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

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

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

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

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

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

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

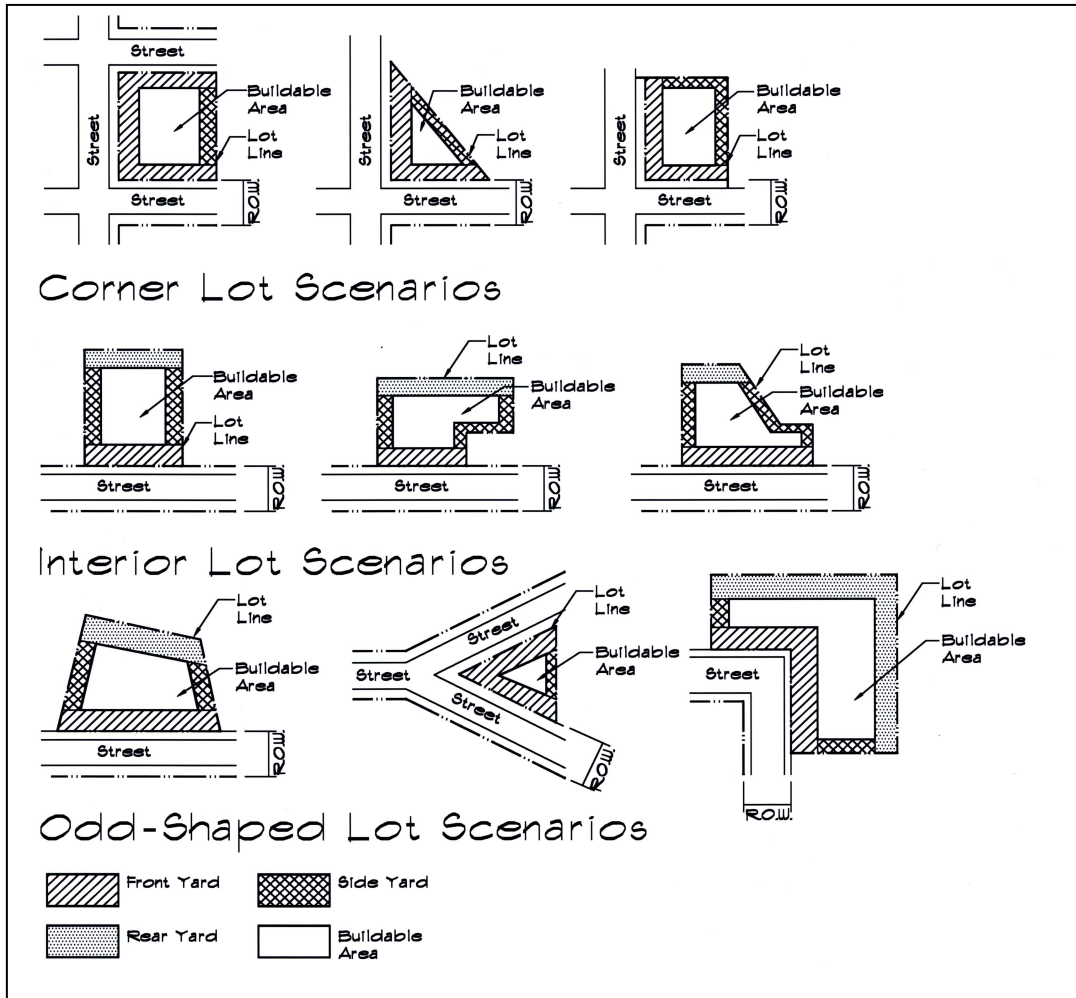
**WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

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

1. **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or street setback line, and extending the full width of the lot. The front yard shall always be on the narrow side of the lot.
2. **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
3. **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Ordinance, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

**ZONING DISTRICT** shall mean a defined area of land within which this Ordinance regulates the use of the land, the height and location of buildings, the size of yards, the intensity of use, and similar matters in a uniform manner.

**ZONING PERMIT** is a written statement issued by the zoning administrator authorizing buildings, structures, or uses in accordance with the provisions of this Ordinance.



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**ARTICLE 3: GENERAL PROVISIONS**

**Section 3.01 Planning Commission Recommendations**

The Planning Commission shall hold public hearings upon, and make recommendation to the legislative body regarding proposed amendments to the Comprehensive Plan and this Ordinance, rezoning, and review of plats, etc. The Commission shall make a preliminary report and hold public hearings thereon before submitting its recommendation to the City Council, which shall not hold its public hearings or take action until it has received the recommendation of the Commission.

**Section 3.02 Lot**

1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.
2. No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.
3. No more than one principal building of a single permitted use or conditional use may be located upon a lot or tract, except one used for institutional, public, multiple-family, commercial, industrial, and farm buildings, provided that appropriate setbacks, height, and lot regulations are met on such lot or tract or upon division of such lot or tract.

**Section 3.03 Reductions in Lot Area Prohibited**

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

**Section 3.04 Obstructions to Vision at Street Intersections Prohibited**

Within a corner lot, except in the Downtown Commercial District, in the area formed by the front property lines and a line at a distance of 25 feet from their intersection, there shall be no obstruction to vision between a height of two and one-half feet and a height of 10 feet above the grades of the bottom of the curb of the intersecting streets. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

**Section 3.05 Yard Requirements**

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Required front, side and rear yards shall be unobstructed from the ground level to the sky, except as herein permitted.
2. All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
3. On corner lots, the yard(s) abutting a street shall not be less than the front yard required for the district in which the lot is located.
4. The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that:
  - a. More than 30 percent, of the frontage of principal structures, on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and
  - b. A minority of such structures have observed or conformed to an average setback line.
5. The required side yard shall be maintained on each side of a dwelling, but may be reduced to 10 percent of the lot width on lots of less than 66 feet in width, provided, however, no side yard shall be less than five feet.
6. Any side or rear yard in an industrial or commercial district which is adjacent to any existing residential use or district shall contain a combination of landscaping and fencing suitable to provide effective screening. Said screening shall be at least six feet but not more than eight feet high. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said screening in good condition.
7. No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space requirements for another building or structure.

**Section 3.06 Through Lots**

1. Where all principal structures in the development face the same frontage, said frontage shall meet the front yard requirements of the zoning district, while the other frontage shall meet the setback for rear yards within the zoning district, provided the setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district.

2. Where principal structures face different directions along both frontages, the setback for fences and screening shall be the same as prescribed within the zoning district. Accessory buildings shall comply with the minimum required setbacks, rather than the reduced setback allowed for accessory buildings.
3. Where a through lot is part of a triple frontage lot, one frontage shall meet the rear yard requirements of the zoning district, while the other two frontages shall meet the front yard requirements of the zoning district.

**Section 3.07 Projections from Buildings**

1. Cornices, eaves, canopies, belt courses, sills, ornamental features, and other similar architectural features may project not more than two feet into any required yard or into any required open space, provided that such required yard or open space meets the required yard standards.
2. Bay windows may project up to three feet into any required yard.
3. As a part of single and two family residences, open uncovered porches or decks no higher than 18 inches above the adjacent grade may project no more than 10 feet into a required rear yard.

**Section 3.08 Drainage**

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise cause a land disturbance that will alter the existing drainage situation shall provide to the City evidence, prepared by a licensed engineer if necessary, that such changes will not be a detriment to the neighboring lands.

**Section 3.09 Permitted Obstructions in Required Yards**

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

1. All Yards:
  - a. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act and are necessary for access to a permitted building or for access to a lot from a street or alley;
  - b. Recreational equipment (swing sets, slides, sand volleyball courts and nets, basketball poles, etc);
  - c. Clothes lines;
  - d. Approved freestanding signs;
  - e. Arbors and trellises;
  - f. Flag poles;
  - g. The projection of window unit air conditioners, not more than 24 inches into the required yard; and
  - h. Fences or walls subject to applicable height restrictions are permitted in all yards.
2. Rear and Side Yards: Open off-street parking spaces or outside elements of central air conditioning systems.
3. Building Groupings: For the purpose of the side yard regulation a group of buildings separated by a common party wall shall be considered as one building occupying one lot.

**Section 3.10 Accessory Building and Uses**

1. No accessory building or structure shall be constructed except in TA upon a lot for more than six months prior to beginning construction of the principal building. No accessory building shall be used for more than six months unless the principal building on the lot is also being used or unless the principal building is under construction and under an active zoning permit. However, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
2. Except in TA, no detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
3. No accessory building or structure shall be erected in or encroach upon a required side yard, or upon the required front yard on a corner lot or double frontage lot.
4. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 5 feet.
5. Accessory buildings and structures may be built within a required rear yard when located at least three feet from the rear lot line and when occupying not more than 30 percent of the area of such rear yard. Further, where vehicular access to an accessory building or structure is provided from and perpendicular to an alley, such building or structure shall be no closer than 15 feet to the alley or if the building and access is parallel to the alley then the distance shall be 5 feet.
6. Detached garages and other accessory buildings located in Residential Districts shall:

- a. Be constructed of materials that are in good repair,
- b. Shall be subordinate to the principle structure in size and use except in TA and RA,
- c. Have sidewalls that do not exceed 10 feet in height,
- d. Garages shall have an overhang of at least six inches,
- e. Garages shall have a maximum width of 36 feet,
- f. Garages shall be constructed and finished in materials customary to residential construction.

**Section 3.11 Temporary Uses**

1. The following temporary uses may be permitted in all districts provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.
  - a. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
  - b. Temporary structure for festivals or commercial events
  - c. Temporary Signs as provided in Sections 7.04
2. The following temporary uses may be permitted in commercial, residential, and industrial districts provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.
  - a. Firework stands provided the criteria are met as established by the City

**Section 3.12 Permitted Modifications of Height Regulations**

1. The height limitations of this Ordinance shall not apply to the following structures, provided yard setbacks are increased by one foot for every two feet in elevation such structure exceeds the maximum height requirement for the underlying zoning district:
  - a. Church and ornamental towers, steeples and spires
  - b. Public monuments and flag poles
  - c. Chimneys, smoke stacks, fire towers, cooling towers, water towers, and standpipes
  - d. Silos
  - e. Grain storage
  - f. Elevator bulkheads and necessary mechanical devices
  - g. Air-pollution prevention devices
  - h. Recreational equipment
  - i. Private radio and television antennae under 75 feet
2. When permitted in a district, public or semi-public service buildings, hospitals, institutions, churches, or schools may be erected to a height not exceeding 75 feet, provided, each required yard line shall be increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

**Section 3.13 Occupancy of Basements and Cellars**

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

**Section 3.14 Nonconforming, General Intent**

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

**Section 3.15 Nonconforming Lots of Record**

A single-family dwelling and customary accessory buildings may be erected on any single lot of record that existed on the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided, that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously since that time.

**Section 3.16 Nonconforming Structures**

1. Authority to continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the

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applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

2. **Enlargement, Repair, Alterations:** Nonconforming structures may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that structures located on a lot that does not comply with the applicable lot size requirements shall provide the required side yard setback.
3. **Damage or Destruction:** In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations of the underlying zoning district, provided structures located on a lot that does not comply with the applicable lot size requirements shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
4. **Moving:** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

### **Section 3.17 Nonconforming Uses**

1. **Nonconforming Uses of Land:** A nonconforming use of land may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land.
  - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.
  - c. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this Ordinance.
2. **Nonconforming Uses of Structures:** A nonconforming use of a building or structure may be continued so long as it remains otherwise lawful subject to the following provisions:
  - a. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.
  - b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance but no such use shall be extended to occupy any land outside such building.
  - c. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use, provided such new nonconforming use is of a more restrictive or less intense nature.
  - d. Any structure and/or land in or on which a nonconforming use is superseded by a permitted use shall not thereafter be used for a nonconforming use, and shall conform to the regulations of the underlying zoning district.
  - e. When a nonconforming use of a structure and/or land is discontinued or abandoned for 12 months, the structure and/or land shall not thereafter be used except in conformance with the regulations of the underlying zoning district.
  - f. Removal or destruction of the structure shall terminate the nonconforming status of the use.

### **Section 3.18 Repairs and Maintenance**

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided the cubic area of the building shall not be increased.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **Section 3.19 Uses under Conditional Use Permit not Nonconforming Uses**

Any use for which a Conditional Use Permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.



**Section 3.20 Recreational Vehicles, Trailers, or Equipment**

All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot greater than 30 days without prior city council approval or as may be authorized elsewhere within this Ordinance.

**Section 3.21 Fees**

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

**Section 3.22 Prohibited Uses**

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

**ARTICLE 4: ZONING DISTRICTS**

**Section 4.01 Districts, Creation and Regulation**

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within the extra territorial jurisdiction, the City is hereby divided into the following districts and regulations. No such district regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing. For the purpose of this Chapter, the City is hereby divided into seven districts, designated as follows:

TA	Transitional Agricultural
RA	Residential Agriculture
R1	Low Density Residential
R2	Medium to High Density Residential
C1	Downtown Commercial District
C2	General Commercial District
I1	Light Industrial District
I2	Heavy Industrial District

**Section 4.02 Provision for Official Zoning Map**

1. The City is hereby divided into districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4.02 of Ordinance No. 2009-12 of the City of Fullerton, Nebraska", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.
2. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \_\_\_\_\_ (Ordinance No. 2009-12) by the City of Fullerton, Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**Section 4.03 Rules for Interpretation of District Boundaries**

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, platted lot lines, railroad lines, lines defining natural features, or the corporate limits of Fullerton shall be construed as following such lines;
2. Boundaries indicated as parallel to or extensions of features indicated above shall be so construed;
3. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
4. Where physical or cultural features existing on the ground do not accurately reflect those shown on the Official Zoning Map, or are not covered within this section, the Board of Adjustment shall interpret the district boundaries;
5. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

**Section 4.04 District Classification upon Annexation**

Areas annexed into the corporate limits of Fullerton, as well as any new area brought into the one mile extraterritorial jurisdiction, shall be zoned to conform to the Fullerton Future Land Use Plan. Such rezoning, when necessary, shall be required to follow proper procedures.

**Section 4.05 TA Transitional Agriculture District**

- 4.05.01 Intent: The Transitional Agriculture District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.
- 4.05.02 Permitted Uses: The following principal uses are permitted in the TA District. See Appendix A for other permitted uses.
1. Farming, pasturing, commercial production and husbandry of livestock, poultry, fish and small animals, truck gardening and roadside stands offering agricultural goods produced on the premises, and orchards, including the sale of products raised on the premises, provided that no livestock feedlot or yard shall exceed a maximum of 10 animal units calculated at a density of one acre for the first A.U. and one-half acre for each additional A.U.
  2. Single-family dwellings
  3. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
  4. Railroads, not including switching, terminal facilities or freight yards
  5. Churches, temples, seminaries, and convents including residences for teachers and pastors
- 4.05.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the TA District as recommended by the Planning Commission and approved by the City Council. See Appendix A for other conditional uses.
1. Retail sale and distribution of agricultural products that have been produced on the premises
  2. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), fishing lakes, gun clubs and swimming pools
  3. Commercial greenhouses
  4. Airstrips
  5. Stables and riding clubs, provided:
    - a. No structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district.
    - b. Minimum lot area of five acres.
  6. Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, provided:
    - a. No structure or building is located closer than 300 feet to any residential use or district not on owner's property.
    - b. Minimum lot area of four acres.
  7. Agricultural storage facilities for equipment and grain
  8. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools
  9. Hospitals, clinics, institutions, including educational, religious and philanthropic institutions, and convalescent homes, provide the following and/or other conditions and standards are met:
    - a. Building shall not occupy more than 40% of the total lot area,
    - b. Building setbacks from all yards shall not be less than one foot per foot of building height.
  10. Nursing home
  11. Radio, television and wireless communication towers and transmitters, pursuant to Section 8.02
  12. Cemeteries provided all structures are located at least 100 feet from all property lines
  13. Water supply and storage facilities, wastewater treatment, sewage disposal, and solid waste disposal facilities
  14. Veterinarians' offices and hospitals, provided that no structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district
  15. Livestock feeding operations, and the raising and care of animals for 4-H, FFA or other rural/school organizations provided no such facility shall have more than 50 animal units provided the producer can meet a density of one acre for the first A.U. and one-half acre for each additional A.U
  16. Commercial wind energy systems on tracts of more than 10 acres.
  17. Bed and breakfast

- 18. Retail motor vehicle sales and service
- 19. Mobile homes and second single-family dwelling units on a farm or ranch provided they are used for relatives or farm workers associated with the farm operation

4.05.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

- 1. Temporary greenhouses.

4.05.05 Accessory Uses:

- 1. Buildings and uses customarily incidental to the permitted and conditional uses
- 2. Home occupation, pursuant to Section 8.01

4.05.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Permitted Uses	5	300	50 (2)	25	50	35	10
Conditional Uses	5 (1)	200	50 (2)	25	50	35	10
Accessory Buildings/Structures	-	-	50 (2)	10	10	35	20

- 1. The minimum lot area is five acres; however, depending upon the size of the facilities and required setbacks the minimum lot area may be required to be greater.
- 2. If along county road or highway measure from street/road right-of-way.

4.05.07 Other Applicable Provisions: The following uses shall be located a minimum of 2,640 feet from any adjacent residential, commercial, or public uses, as measured from the nearest point on the lot line; not including the operator's property.

- 1. Commercial auction yards or barns
- 2. Commercial production and husbandry of poultry, fish, and small animals
- 3. Commercial feedlots
- 4. Mining and extraction of natural resources
- 5. Feed mills
- 6. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards
- 7. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals

4.05.08 No new residential, commercial, or public uses shall be located nearer than 2,640 feet to any existing use listed in 4.05.07.

**Section 4.06 RA Residential Agriculture District**

4.06.01 Intent: The Residential Agriculture District is intended to permit the continuation of productive agricultural uses within and adjacent to the corporate limits of the City of Fullerton, while also accommodating single-family and compatible uses.

4.06.02 Permitted Uses: The following principal uses are permitted in the RA District. See Appendix A for other permitted uses.

1. Farming, pasturing, commercial production and husbandry of livestock, poultry, fish and small animals, truck gardening and roadside stands offering agricultural goods produced on the premises, and orchards, including the sale of products raised on the premises
2. Single-family dwellings
3. Family Child Care Home I
4. Public and private schools, colleges, and universities
5. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses

4.06.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the RA District as recommended by the Planning Commission and approved by the City Council. See appendix A for other conditional uses.

1. Two-family dwellings

4.06.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Temporary greenhouses
2. Farmer’s market
3. Fireworks stand

4.06.05 Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses
2. Home occupation, pursuant to Section 8.01

4.06.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Single-Family Dwelling	3 acres	100	25	10	25	35	40
Other Permitted Uses	1 acre	150	25	10	25	35	40
Conditional Uses	1 acre	150	25	10	25	35	40
Accessory Buildings/Structures	-	-	25	10	10	35	20

4.06.07 Miscellaneous Provisions:

1. Accessory structures may be permitted to be up to 25 percent larger than primary structures located on the same lot.

**Section 4.07 R1 Low Density Residential District**

4.07.01 Intent: The Low Density Residential District is intended to permit single-family and two family residential developments in areas with adequate public facilities and supporting uses.

4.07.02 Permitted Uses: The following principal uses are permitted in the R1 District. See Appendix A for other permitted uses.

1. Single family dwellings
2. Two-family dwellings
3. Churches, temples, seminaries and convents, including residences for teachers and pastors
4. Public and private schools, colleges, and universities
5. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
6. Family Child Care Home I

4.07.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R1 District as recommended by the Planning Commission and approved by the City Council. See Appendix A for other conditional uses.

1. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes
2. Bed and breakfast
3. Family Child Care Home II
4. Taxidermy, pursuant to Home Occupation Section 8.01
5. Non-conforming residential structure. The City may allow a permit to expand an existing non-conforming single-family dwelling or accessory structure. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
  - a. Permit cannot authorize a new type of non-conformity of use or structure or increase the degree of non-conformity
  - b. A structure must be located on a lot of less than 5,000 square feet

4.07.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Temporary greenhouses
2. Farmer’s market
3. Firework’s stand

4.07.05 Accessory Uses

1. Buildings and uses customarily incidental to the principal uses
2. Home occupation, pursuant to Section 8.01

4.07.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single-family detached residential	10,000 sq. ft.	75	25	(1)	25	35	40%
Single Family Attached Residential (per unit)	10,000 sq. ft.	18 (4)	25	10 (3)	25	35	40%
Two Family Residential	12,000 sq. ft.	75	25	10 (3)	25	35	40%
Other Permitted Uses	20,000 sq. ft.	75	25	10	25	35	40%
Conditional Uses	20,000 sq. ft.	75	25	10	25	35	40%
Accessory Uses	-	-	25	5	5	17	10% (2)

1. Side yard setback shall be seven feet for single story structures and eight feet for taller structures.
2. All accessory structures shall be located in the side or rear yard
3. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
4. The minimum lot width only applies to the interior lots of a townhouse/single-family attached development. Exterior lots shall be a minimum 35 feet.

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**Section 4.08 R2 Medium to High Density Residential District**

- 4.08.01 Intent: The purpose of the Medium to High Density Residential District is to permit single-family and two-family residences at a high density with an increase of density to include multi-family residential units in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.
- 4.08.02 Permitted Uses: The following principal uses are permitted in the R2 District. See Appendix A for other permitted uses.
1. Single family dwellings
  2. Two Family dwellings
  3. Townhouses
  4. Multiple Family dwellings, up to four units
  5. Churches, temples, seminaries and convents, including residences for teachers and pastors
  6. Public and private schools, colleges, and universities
  7. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
  8. Bed and breakfast
  9. Family Child Care Home I
- 4.08.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R2 District as recommended by the Planning Commission and approved by the City Council. See appendix A for other conditional uses.
1. Private and public country clubs and golf courses, not including commercial miniature golf, located on not less than 10 acres
  2. Multiple Family dwellings, five or more units
  3. Family Child Care Home II
  4. Civic, social and fraternal organizations
  5. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions or funeral homes
  6. Manufactured Home Parks, provided they meet the following conditions:
    - a. The park shall be developed according to a site plan approved by the Zoning Administrator and City Engineer.
    - b. There shall be a minimum livable floor area of 500 square feet in each manufactured home that is owned and leased by the park owner.
    - c. Height of Buildings.
      - i. Maximum height for principal uses: 35 feet.
      - ii. Maximum height for accessory uses: 17 feet.
    - d. Each lot shall have access to a hard surfaced drive not less than 22 feet in width excluding parking.
    - e. City water and sewage disposal facilities shall be provided with connections to each lot.
    - f. Tie downs shall meet all manufacturer recommendations.
    - g. Service buildings including adequate laundry and drying facilities, and toilet facilities for manufactured homes which do not have these facilities within each unit.
    - h. Not less than 10% of the total court area shall be designated and used for park, playground and recreational purposes.
    - i. Individual lot coverage shall not exceed 45%.
    - j. Storm shelters shall be required and shall meet the following criteria:
      - i. Shelter space equivalent to a minimum of two persons per manufactured home lot,
      - ii. Designed in conformance with "National Performance Criteria for Tornado Shelters," by FEMA and any other referenced material by FEMA,
      - iii. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
    - k. All manufactured home pad locations shall be hard surfaced with properly reinforced poured-in-place concrete.

- l. All manufactured homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.
- m. All off-street parking shall be hard surfaced.
- n. All manufactured homes shall comply with all other City ordinances.
- o. A complete plan of the manufactured home park shall be submitted showing:
- p. A development plan and grading plan of the court.
  - i. The area and dimensions of the tract of land.
  - ii. The number, location, and size of all manufactured home spaces.
  - iii. The number, location, and size of all hard surfaced pads shall be shown.
  - iv. The area and dimensions of the park, playground and recreation areas.
  - v. The location and width of roadways and walkways.
  - vi. The location of service buildings and any other proposed structures.
  - vii. The location of water and sewer lines and sewage disposal facilities.
  - viii. Plans and specifications of all buildings and other improvements constructed or to be constructed within the manufactured home park.
- 7. Taxidermy, pursuant to Home Occupation Section 8.01
- 8. Non-conforming residential structure. The City may allow a permit to expand an existing non-conforming single-family dwelling or accessory structure. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
  - a. Permit cannot authorize a new type of non-conformity of use or structure or increase the degree of non-conformity
  - b. A structure must be located on a lot of less than 5,000 square feet

4.08.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

- 1. Temporary greenhouses
- 2. Farmer's market
- 3. Firework's stand

4.08.05 Accessory Uses:

- 1. Buildings and uses customarily incidental to the principal use
- 2. Home occupation, pursuant to Section 8.01

4.08.06 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Detached	5,000	50	25	5	25	35	40%
Single Family Attached and Townhouse (per unit)	3,750	18 (4)	25	5 (1)	25	35	40%
Two Family	8,000	75	25	5	25	35	40%
Multiple Family	2,900 per unit	100	25	10 (2)	25	45	40%
Other Permitted Uses	10,000	100	25	5	25	35	30%
Conditional Uses	10,000	100	25	5	25	35	30%
Accessory Uses	-	-	25	5	5 (5)	17	10% (3)

- 1. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
- 2. For Multi-family units shall be 10 feet if it is a three-story structure, and two feet additional side yard on each side shall be provided for each story in excess of three stories.
- 3. Provided total area of accessory structure for single-family does not exceed 1,200 sq. ft. and the total lot coverage of all buildings does not exceed 40%.
- 4. The minimum lot width only applies to the interior lots of a townhouse/single-family attached development. Exterior lots shall be a minimum 35 feet.
- 5. The rear yard setback for accessory uses shall be 0 feet if the rear lot line is located along an alley.



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**Section 4.09 C1 Downtown Commercial District**

- 4.09.01 Intent: The Downtown Commercial District is intended to provide for commercial development within the existing downtown area of Fullerton that will benefit the retail trade, business, cultural, and social activities of the entire community.
- 4.09.02 Permitted Uses: The following principal uses are permitted in the C1 District. See Appendix A for other permitted uses.  
General offices
1. Professional offices
  2. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
  3. Assembly hall
  4. Retail businesses, such as
    - a. Antique or gift store
    - b. Appliance store
    - c. Automobile parts store
    - d. Bakery
    - e. Bar
    - f. Barber or hair salon
    - g. Clothing, shoe, and tailor shops
    - h. Electronics store
    - i. Furniture store
    - j. Grocery or pharmacy
    - k. Hardware store
    - l. Laundromat or dry cleaner
    - m. Photography studio
    - n. Photocopy shop
    - o. Restaurant
    - p. Theater
    - q. Other uses similar in nature
- 4.09.03 Conditional Uses: A building or premises may be used for the following purposes in the C1 Downtown Commercial District if a conditional use permit for such use has been obtained in accordance with Article 6 of this Ordinance. See Appendix A for other conditional uses.
1. Recreational establishments
  2. Private, business or trade school
  3. Garden supply and retail garden center
  4. Alcohol sales, on- or off-premises
  5. Car wash
  6. Outdoor entertainment
  7. Convenience store, with or without limited fuel sales
  8. Residences in conjunction with the principle use when located above the ground floor
  9. Churches, temples, seminaries, and convents including residences for teachers and pastors
  10. Printing and publishing
  11. Retail motor vehicle sales
  12. Service station with limited fuel sales
  13. Minor vehicle repair services, not including paint or body repair
  14. Tire store
  15. Veterinarian clinics
  16. Outdoor lounge or beer garden
- 4.09.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.
1. Temporary greenhouses
  2. Fireworks stand

4.09.05 Accessory Uses: The following accessory uses and structures shall be permitted.

1. Buildings and uses customarily incidental to the permitted uses

4.09.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area (feet)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)
Permitted Uses	-	-	-	(1)	10 (2)	45
Permitted Conditional Uses	-	-	-	(1)	10 (2)	45
Accessory Buildings	-	-	-	(1)	10 (2)	-

1. None, except that when adjacent to any district requiring a side yard, the side yard setback shall be 10 feet.
2. 10 feet, except that when adjacent to any residential district, the rear yard setback shall be 25 feet.

4.09.07 Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide a six foot high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 8.03.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

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**Section 4.10 C2 General Commercial District**

- 4.10.01 Intent: The General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.
- 4.10.02 Permitted Uses: The following principal uses are permitted in the C2 District. See Appendix A for other permitted uses.
1. General offices
  2. Professional offices
  3. Medical offices
  4. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions or funeral homes
  5. Private, business or trade school
  6. Assembly hall
  7. Garden supply and retail garden center
  8. Home improvement store
  9. Department store
  10. Veterinarian clinics
  11. Retail businesses, such as
    - a. Antique or gift store
    - b. Appliance store
    - c. Automobile parts store
    - d. Bakery
    - e. Barber or hair salon
    - f. Clothing, shoe, and tailor shops
    - g. Electronics store
    - h. Furniture store
    - i. Grocery or pharmacy
    - j. Hardware store
    - k. Laundromat or dry cleaner
    - l. Photography studio
    - m. Photocopy shop
    - n. Restaurant
    - o. Theater
    - p. Other uses similar in nature
  12. Publicly owned and operated parks, playgrounds, fire stations, community centers, City offices, and libraries
  13. Hotel/Motel
- 4.10.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C2 District as recommended by the Planning Commission and approved by the City Council. See Appendix A for other conditional uses.
1. Recreational establishments
  2. Alcohol sales, on- or off-premises
  3. Bar
  4. Bed and Breakfast
  5. Convenience store with limited fuel sales
  6. Temporary greenhouse
  7. Car wash
  8. Truck Wash
  9. Outdoor Entertainment
  10. Residences in conjunction with the principle use when located above the ground floor
  11. Churches, temples, seminaries, and convents including residences for teachers and pastors
  12. Printing and publishing
  13. Retail motor vehicle sales and service

- 14. Agricultural machinery sales and service
- 15. Service station with limited fuel sales
- 16. Minor vehicle repair services, not including paint or body repair
- 17. Tire store

4.10.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Fireworks stands

4.10.05 Accessory Uses:

- 1. Buildings and uses customarily incidental to the permitted uses

4.10.06 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area (acres) (3)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	2,500	30	25 (4)	(1)	(2)	45	80%
Conditional Uses	2,500	30	25 (4)	(1)	(2)	45	80%
Accessory Uses	-	-	25 (4)	(1)	(2)	45	40%

- 1. None, except that when adjacent to any residential district, the side yard setback shall be 25 feet.
- 2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet, unless there is an alley between the two, in which case the rear yard setback shall be five feet.
- 3. Minimum Lot Area to be calculated based upon Maximum Lot Coverage, Building footprint, and required ancillary uses like parking and landscaping unless otherwise noted.
- 4. A front yard setback of 25 feet is required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet.

4.10.07 Miscellaneous Provisions:

- 1. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

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**Section 4.11 I1 Light Industrial District**

- 4.11.01 Intent: It is the intent of the Light Industrial District is to provide standards for areas suitable for some less intense industrial, small scale wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.
- 4.11.02 Permitted Uses: The following principal uses are permitted in the I1 District. See Appendix A for other permitted uses.
1. Assembly, fabrication, manufacture, and processing of products inside an enclosed building, except hazardous or combustible materials or methods producing excessive noise, odor, or vibration
  2. Automobile storage yard, provided all vehicles are kept in an enclosed and screened area
  3. Building materials yards with enclosed and screened storage areas
  4. Construction and heavy equipment sales and service
  5. Contractor's yard
  6. Farm and industrial equipment sales
  7. Highway maintenance yards or buildings
  8. Laboratories
  9. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use
  10. Livestock auction or sales barn
  11. Printing and publishing business
  12. Research facilities
  13. Self-storage units provide the standards of Section 8.05 are met
  14. Stone and monument works
  15. Publicly owned and operated parks, playgrounds, fire stations, community centers, City offices, and libraries
  16. Warehouses and wholesale businesses
- 4.11.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I1 District as recommended by the Planning Commission and approved by the City Council. See Appendix A for other conditional uses.
1. Alfalfa dehydrating plant.
  2. Asphalt mixing, manufacture, or refining
  3. Auto body repair shops, provided the following minimum standards are met:
    - a. all vehicles waiting on repair shall be behind an opaque screened area
    - b. all exhaust fumes from painting areas shall meet all Federal and State requirements
    - c. All parts shall be in a screened in area.
    - d. Parts shall not be stacked taller than the fence or wall
    - e. Parts are not intended to be inventoried for more than a one year period
    - f. Screened areas and business are not to be used in a manner that would be defined as either an "Automobile Wrecking Yard" or "Junk Yard".
    - g. Screened in areas shall be opaque fence or solid wall at least eight feet in height.
  4. Automobile junk yard or wrecking yard provided the standards of Section 8.06 are met
  5. Concrete or cement product manufacturing
  6. Dying and cleaning establishments
  7. Ethanol plant
  8. Grain storage bins and elevators
  9. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
  10. Telecommunication and broadcast tower, pursuant to Section 8.02
  11. Truck terminal and dock facilities to include truck washing

4.11.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Fireworks stands

4.11.05 Accessory Uses:

1. Buildings and uses customarily incidental to the permitted uses

4.11.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	10,000	50	25 (2)	15 (1)	25	45	60%
Conditional Uses	10,000	50	25 (2)	15 (1)	25	45	60%
Accessory Uses	-	-	25 (2)	15 (1)	25	45	60%

1. When adjacent to any residential district, the side yard setback shall be 25 feet.
2. A front yard setback of 25 feet is required only when no parking is present in front yard. If parking is in the front yard then front yard setback is a minimum of 50 feet.

4.11.07 Miscellaneous Provisions:

1. The maximum height requirement may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
2. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within 25 feet of said residential district.
3. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.

4.11.08 Performance Standards: See Section 8.04 of the Supplemental Regulations.

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**Section 4.12 I2 Heavy Industrial District**

4.12.01 Intent: It is the intent of the Heavy Industrial District is to provide standards for areas suitable for some intense industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

Adult Entertainment Facilities are included in this Zoning District. The intent of this Ordinance in placing these uses in this district is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

4.12.02 Permitted Uses: The following principal uses are permitted in the I2 District. See Appendix A for other permitted uses.

1. Assembly, fabrication, manufacture, and processing of products inside an enclosed building, except hazardous or combustible materials or methods producing excessive noise, odor, or vibration
2. Automobile storage yard, provided all vehicles are kept in an enclosed and screened area
3. Building materials yards with enclosed and screened storage areas
4. Construction and heavy equipment sales and service
5. Contractor's yard
6. Farm and industrial equipment sales
7. Highway maintenance yards or buildings
8. Laboratories
9. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use
10. Livestock auction or sales barn
11. Printing and publishing business
12. Research facilities
13. Self-storage units provide the standards of Section 8.05 are met
14. Stone and monument works
15. Publicly owned and operated parks, playgrounds, fire stations, community centers, City offices, and libraries
16. Warehouses and wholesale businesses

4.12.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I1 District as recommended by the Planning Commission and approved by the City Council. See Appendix A for other conditional uses.

1. Alfalfa dehydrating plant.
2. Asphalt mixing, manufacture, or refining
3. Auto body repair shops, provided the following minimum standards are met:
  - h. all vehicles waiting on repair shall be behind an opaque screened area
  - i. all exhaust fumes from painting areas shall meet all Federal and State requirements
  - j. All parts shall be in a screened in area.
  - k. Parts shall not be stacked taller than the fence or wall
  - l. Parts are not intended to be inventoried for more than a one year period
  - m. Screened areas and business are not to be used in a manner that would be defined as either an "Automobile Wrecking Yard" or "Junk Yard".
  - n. Screened in areas shall be opaque fence or solid wall at least eight feet in height.
4. Automobile junk yard or wrecking yard provided the standards of Section 8.06 are met
5. Concrete or cement product manufacturing
6. Dying and cleaning establishments
7. Ethanol plant
8. Grain storage bins and elevators
9. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
10. Telecommunication and broadcast tower, pursuant to Section 8.02

11. Truck terminal and dock facilities to include truck washing
  12. Adult Entertainment establishments shall conform to these regulations:
    - a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district or use, religious use, educational use or recreational use. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the closest point on the property line of such other adult business, residential district or use, religious use, educational use or recreational use.
    - b. Said businesses shall be screened along adjoining property lines so as to prevent any direct visual contact of the adult business from the perimeter.
    - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
    - d. No adult business shall be open for business between the hours of twelve-midnight (12:00 a.m.) and six a.m. (6:00 a.m.).
    - e. The proposed location, design, construction and operation of the particular use shall provide adequate safeguards to protect the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
    - f. Such use shall not impair an adequate supply of light and air to surrounding property.
    - g. Such use shall not unduly increase congestion in the streets or public dangers, including fire and safety hazards.
    - h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
    - i. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Fullerton, Nebraska.
    - j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property. The application shall also include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
    - k. An adult business shall post a sign at the entrance of the premises that shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for admission to the premises.
    - l. Prohibited Activities of Adult Businesses:
      - i. No adult business shall employ any person less than 18 years of age.
      - ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age.
      - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
      - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.
- 4.12.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.
1. Fireworks stands
- 4.12.05 Accessory Uses:
2. Buildings and uses customarily incidental to the permitted uses



4.12.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	10,000	50	35 (2)	15 (1)	25	45	60%
Conditional Uses	10,000	50	35 (2)	15 (1)	25	45	60%
Accessory Uses	-	-	35 (2)	15 (1)	25	45	60%

1. When adjacent to any residential district, the side yard setback shall be 25 feet.
2. A front yard setback of 35 feet is required only when no parking is present in front yard. If parking is in the front yard then front yard setback is a minimum of 50 feet.

4.12.07 Miscellaneous Provisions:

4. The maximum height requirement may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
5. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within 25 feet of said residential district.
6. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.

4.12.08 Performance Standards: See Section 8.04 of the Supplemental Regulations.

Article 4: Zoning Districts

LOT AND AREA REQUIREMENTS	MINIMUM LOT AREA		MIN. YARD SETBACK			MAX. HEIGHT	MAX. LOT COVERAGE	
	ZONING DISTRICT	LOT AREA	LOT WIDTH (feet)	FRONT (feet)	SIDE (feet)	REAR (feet)	IN FEET	PERCENT OF LOT AREA
<b>TA: Transitional Agricultural</b>								
Permitted Uses	5 acres	300	50*	25	50	35	10%	
Conditional Uses	5 acres*	200	50*	25	50	35	10%	
Accessory Buildings/Structures	-	-	50*	10	10	35	20%	
<b>RA: Residential</b>								
Single-family Detached	3 acres	100	25	10	25	35	40%	
Single-family Attached (per unit)	1 acre	150	25	10	25	35	40%	
Two-family	1 acre	150	25	10	25	35	40%	
Other Permitted Uses	-	-	25	10	10	35	20%	
<b>RI: Low Density Residential</b>								
Single-family Detached	10,000	75	25	*	25	35	40%	
Single-family Attached (per unit)	10,000	18*	25	10*	25	35	40%	
Two-family	12,000	75	25	10	25	35	40%	
Other Permitted Uses	20,000	75	25	10	25	35	40%	
Conditional Uses	20,000	75	25	10	25	35	40%	
Accessory Uses	-	-	25	5	5	17	10%*	
<b>R2: Medium to High Density Residential</b>								
Single-family Detached	5,000	50	25	5	25	35	40%	
Single-family Attached and Townhouse (per unit)	3,750	18*	25	5*	25	35	40%	
Two-family	8,000	75	25	5	25	35	40%	
Multiple Family	2,900/unit	100	25	10	25	45	40%	
Other Permitted Uses	10,000	100	25	5	25	35	30%	
Conditional Uses	10,000	100	25	5	25	35	30%	
Accessory Uses	-	-	25	5	5*	17	10%*	
<b>C1: Downtown Commercial</b>								
Permitted Uses	-	-	-	*	10*	45	-	
Conditional Uses	-	-	-	*	10*	45	-	
Accessory	-	-	-	*	10*	-	-	
<b>C2: General Commercial</b>								
Permitted Uses	2,500	30	25*	*	*	45	80%	
Conditional Uses	2,500	30	25*	*	*	45	80%	
Accessory	-	-	25*	*	*	45	40%	
<b>I1: Light Industrial</b>								
Permitted Uses	10,000	50	25*	15*	25	45	60%	
Permitted Conditional Uses	10,000	50	25*	15*	25	45	60%	
Accessory Uses	-	-	25*	15*	25	45	60%	
<b>I2: Heavy Industrial</b>								
Permitted Uses	10,000	50	35*	15*	25	45	60%	
Permitted Conditional Uses	10,000	50	35*	15*	25	45	60%	
Accessory Uses	-	-	35*	15*	25	45	60%	

\*Refer to the specific districts Height and Lot requirements

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**ARTICLE 5: CONDITIONAL USE PERMITS**

**Section 5.01 General Provisions**

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

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

**Section 5.02 Application for Conditional Use Permit**

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

**Section 5.03 Public Hearing**

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

**Section 5.04 Decisions**

A majority vote of the City Council shall be necessary to grant a conditional use permit. No order of the City Council granting a conditional use permit shall be valid for a period of longer than 12 months from the date of such order, unless the City Council specifically grants a longer period of time upon the recommendation of the Planning Commission.

**Section 5.05 Standards**

No conditional use permit shall be granted unless the Planning Commission and City Council have found:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, and drainage facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
7. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
8. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
9. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
10. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
11. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

**Section 5.06 Conditions**

In addition to the Standards listed herein, the Planning Commission may recommend, and the City Council may adopt such other conditions as may be necessary or desirable to address such concerns as the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The City Council may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this Ordinance.

**ARTICLE 6: PARKING REGULATIONS**

**Section 6.01 Off-Street Automobile Storage**

1. Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area not identified, the ratio of 200 square feet per parking space shall be used.
2. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
3. Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
4. All parking spaces for single-family dwellings, two or more unit multi-family dwellings, convalescent homes, apartments, townhouses, and mobile homes shall have a suitable hard surface including crushed rock, asphalt or concrete.
5. Off-street parking requirements shall not apply to the C1 Zoning District.
6. In Districts R1 and R2, required off-street parking shall be provided on the lot on where the use to which the parking pertains, or immediately adjacent thereto. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot, provided, however, the lot on which the use requiring them is located and the lot providing the parking are not separated by more than 400 feet at closest points, measured along a street or streets. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.

**Section 6.02 Off-street Parking: Shared Parking Requirements**

Notwithstanding the provisions of this article, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the City Council. Said request for a decrease in parking spaces shall be made as an Application for a Conditional Use Permit.

**Section 6.03 Schedule of Minimum Off-Street Parking and Loading Requirements**

Uses	Parking Requirements	Loading Requirements
Adult Entertainment Establishments	One space per two persons of licensed capacity	None required
Bowling Alleys	Four spaces per alley plus one per two employees	One space per establishment
Churches, Synagogues, and Temples	One space per four seats or eight feet of pew length in main worship area	None required
Clubs, including fraternal organizations	One space per 500 s.f. of gross floor area	None required
College/University	Eight spaces per classroom plus one space per employee	Two spaces per structure
<b>Commercial Uses</b>		
Agricultural Sales / Service	One space per 500 s.f. of gross floor area	One per establishment
Automotive Rental / Sales	One space per 500 s.f. of gross floor area	One per establishment
Automotive Servicing	Three spaces per repair stall	None required
Bars, Taverns, Nightclubs	Parking equal to 30% of licensed capacity	Two spaces per establishment
Automotive Body Repair	Four spaces per repair stall	None required
Dance Hall	One space per 100 s.f. of gross floor area plus one space per employee	One per establishment
Equipment Rental / Sales	One space per 500 s.f. of gross floor area	One Space
Campground	One space per camping unit	None required
Commercial Recreation	One space per four persons of licensed capacity	One per establishment
Communication Services	One space per 500 s.f. of gross floor area	One per establishment
Construction Sales / Service	One space per 500 s.f. of gross floor area	One per establishment
Food Sales (limited)	One space per 300 s.f. of gross floor area	One per establishment
Food Sales (general)	One space per 200 s.f. of gross floor area	Two per establishment
General Retail Sales establishments	One space per 200 s.f. of gross floor area	One per establishment
Laundry Services	One space per 200 s.f. of gross floor area	None required
Restaurants w/ drive-thru	Greater of the two: One space per 40 s.f. of dining area, or One space per 150 s.f. of gross floor area	One per establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	Two spaces per establishment
Nursing Home	One space per three beds plus one per employee on the largest shift	Two space per structure
Day Care	One space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
Educational Uses, Primary facilities	Two spaces per classroom	Two spaces per structure
Educational Uses, Secondary facilities	Eight spaces per classroom plus one space per employee on largest shift	Two spaces per structure
Funeral Homes and Chapels	Eight spaces per reposing room	Two spaces per establishment
Group Home	One space per four persons of licensed capacity	Two space per structure
Hospitals	One space per two licensed beds	Three spaces per structure
Hotels and Motels	One space per rental unit plus one per two employees on largest shift	One space per establishment
<b>Housing (Congregate)</b>		
Assisted-living facilities	One space per dwelling unit plus one space per employee on the largest shift	One per structure
Duplex	Two spaces per dwelling unit	None required
Multi-family / Apartments / Dormitory / Student Lodging	One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Industrial Uses	Three spaces for every four employees during the largest shift (.75 times number of employees.)	Two spaces per establishment
Libraries	One space per 400 s.f. of gross floor area plus one space per employee	One per structure
Boarding Houses / Bed and Breakfasts	One space per rental units	None required
Medical Clinics	Five spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	Two per dwelling unit	None required
Offices and Office Buildings	One space per 200 s.f. of gross floor area	None required
Residential (Single-family, attached and detached)	Two spaces per dwelling unit	None required
Roadside stands	Four spaces per establishment	None required
Service Oriented Establishments	One space per 200 s.f. of gross floor area	One per establishment
Theaters, Auditoriums, and Places of Assembly	One space per five persons of licensed capacity	One space per establishment
Veterinary Clinic	Three spaces per staff doctor	None required
Wholesaling / Distribution Operations	One space per two employees on the largest shift	Two spaces per establishment

**Section 6.04 Off-Street Parking: Parking for Individuals with Disabilities**

1. In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different lot, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured from that lot.

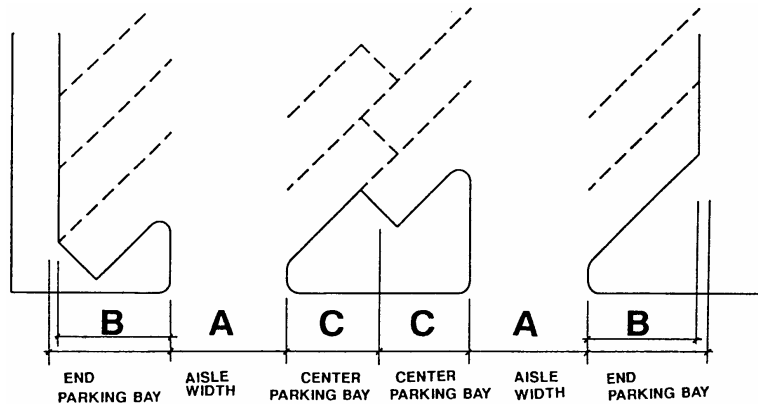
Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20, plus 1 for each 100 over 1,000

2. Access aisles adjacent to accessible spaces shall be five feet wide minimum.
  - a. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet wide minimum and shall be designated “van accessible.” The vertical clearance at such spaces shall comply with this section. All such spaces may be grouped on one level of a parking structure.
  - b. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
  - c. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
  - d. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with this section.
  - e. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with this Ordinance shall be provided in accordance with this section; except as follows:
    - i. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
    - ii. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
3. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
  - a. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
  - b. In buildings with multiple accessible entrances and adjacent parking, the accessible parking spaces shall be dispersed and located closest to each accessible entrance.
4. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces for vans shall have an additional sign stating “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so a vehicle parked in the space cannot obscure them.
5. The minimum vertical clearance shall be nine and one-half feet at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s).
6. Passenger Loading Zones shall provide an access aisle at least five feet wide and 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, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent in all directions.

**Section 6.05 Off-Street Parking Design Criteria**

1. Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. For standard parking lots, minimum dimensions shall be as follows:

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



2. All areas used for standing and maneuvering of vehicles shall be designed such that drainage across sidewalks is minimized.
3. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet.
4. Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
5. Artificial lighting used in a parking lot shall be so designed as to deflect light away from adjacent residential dwellings.
6. All parking spaces, except for those used in conjunction with a residential dwelling, shall be located such and served with a driveway such that their use will require no backing movements or maneuvering within a street right-of-way other than an alley.
7. Service drives shall not be more than 30 feet in width, and shall conform to the minimum sight triangle requirements for unobstructed vision. Service drives shall also be clearly and permanently marked and defined through the use of rails, fences, walls, or other barriers or markers.
8. Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the City Council upon recommendation of the City Engineer.
9. All of the requirements of this Section shall be complied with, and all off-street parking requirements shall be made available for use prior to the issuance of a Certificate of Occupancy. A time extension may be granted by the Zoning Administrator, provided a performance bond, or its equivalent, is posted which equals the cost to complete the parking improvements as estimated by the Zoning Administrator, and provided the parking requirements are not required for immediate use. In the event the improvements are not completed within one year of any such extension, the bond or its equivalent shall be forfeited and the improvements shall be completed under the direction of the City Council.



**ARTICLE 7: SIGN REGULATIONS**

**Section 7.01 Standard of Measurement**

1. The total area of all signs permitted on a lot shall include:
  - a. The total area of the faces of all permanent exterior signs visible from a public way, plus
  - b. The area of permanent signs placed upon the surface of windows and doors, plus
  - c. The area within the outline enclosing the lettering, modeling or insignia of signs integral with a wall and not designed as a panel.
2. Wall signs shall not exceed one and one-half square feet per lineal foot of lot frontage, up to 100 square feet in total area. A building or use having frontage on a second street may increase its allowable square footage by including 20 percent of the length of the lot frontage along the second street, up to 120 square feet in total area.

**Section 7.02 Area Computation**

1. Computation of Area of Individual Signs: The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.
2. Computation of Area of Multi-faced Signs: The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
3. Computation of Height: The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign, or (2) normal grade. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

**Section 7.03 Sign Schedule**

Signs shall be permitted in the various districts according to the following schedule:

<b>Zoning District</b>	<b>TA</b>	<b>RA</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>I-1</b>	<b>I-2</b>
<b>Sign Type</b>								
<b>Real Estate</b>	+	+	+	+	+	+	+	+
<b>Announcement</b>	+	+	+	+	+	+	+	+
<b>Wall</b>	+	-	-	-	+	+	+	+
<b>Name Plate</b>	+	+	+	+	+	+	+	+
<b>Billboard</b>	C	-	-	-	-	-	-	-
<b>Ground</b>	C	C	-	-	+	+	+	+
<b>On-Site Advertising</b>	+	C	-	-	+	+	+	+
<b>Off-Site Advertising</b>	C	C	-	-	-	C	-	-
<b>Animated or Flashing</b>	-	-	-	-	-	-	-	-
<b>Pole</b>	-	-	-	-	+	+	+	+

+: permitted      -: not permitted      C: Conditional Use

Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

<b>Zoning District</b>	<b>TA</b>	<b>RA</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>I-1</b>	<b>I-2</b>
<b>Sign Type</b>								
<b>Real Estate</b>								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height (ft)	6	-	-	-	4	4	4	4
<b>Announcement</b>								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height (ft)	4	4	4	4	4	4	4	4
<b>Wall</b>								
Max. Square Ft.	50	-	-	-	100	100	200	200
Max. Height (ft)	15	-	-	-	45	45	45	45
<b>Name Plate</b>								
Max. Square Ft.	2	2	2	2	2	2	2	2
Max. Height (ft)	-	-	-	-	-	-	-	-
<b>Billboard</b>								
Max. Square Ft.	500	-	-	-	-	-	-	-
Max. Height (ft)	50	-	-	-	-	-	-	-
<b>Ground</b>								
Max. Square Ft.	100	100	-	-	100	100	200	200
Max. Height (ft)	10	-	-	-	10	10	10	10
<b>On-Site Advertising</b>								
Max. Square Ft.	100	100	-	-	100	100	200	200
Max. Height (ft)	45	-	-	-	45	45	45	45
<b>Off-Site Advertising</b>								
Max. Square Ft.	64	64	-	-	-	64	-	-
Max. Height (ft)	30	30	-	-	-	30	-	-
<b>Pole</b>								
Max. Square Ft.	-	-	-	-	100	100	200	200
Max. Height (ft)	-	-	-	-	15	15	15	15

- : Not Permitted

**Section 7.04 Special Conditions**

1. Temporary Signs: Temporary signs:
  - a. Shall not be of such size, message, or character so to harm the public, health, safety, or general welfare.
  - b. May be displayed for a period not to exceed 14 days, except real estate signs which may be displayed until the subject property is sold, and construction signs which may be displayed until such construction is completed.
2. Campaign signs: are limited to six per lot, may be erected 30 days before the election and shall be removed no later than seven days following such election.
3. Real Estate signs shall be limited to two per lot; when located in the TA District, they shall be set back 20 feet from the road right-of-way or road easement.
4. Freestanding signs, including but not limited to billboard, ground, and pole signs shall constitute a structure for the purposes of this Ordinance, and shall require a zoning permit prior to their installation.
5. Community Event signs used to display information for a community event or function shall be permitted in all zoning districts, provided they are temporary only, and are not placed in the right-of-way.
6. Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district, and shall also:
  - a. be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  - b. be located within 50 feet of any lot in a residential district.
  - c. be so constructed or located to unreasonably interfere with the use and enjoyment of adjoining property.
7. Hanging signs from canopies and awnings shall be no closer than eight feet to the grade below.
8. Signs in the public right-of-way, shall be prohibited, except for the following:
  - a. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, advertise community events, and direct or regulate pedestrian or vehicular traffic.
  - b. Information signs of a public utility regarding its poles, lines, pipes, or facilities; and
  - c. Awning, projecting, and suspended signs that meet the requirements of this Ordinance and approval of City Council.

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**ARTICLE 8: SUPPLEMENTAL REGULATIONS**

**Section 8.01 Home Occupations**

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

1. One unlit nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. The area may be increased to four square feet when attached flat against a building located on arterial streets.
2. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
3. No more than 50 percent of the home or an accessory building or structure shall be used for the home occupation.
4. No more than one employee or co-worker other than the resident(s) shall work from that site.
5. No retail sales are permitted from the site other than incidental sales related to services provided.
6. No exterior storage (excluding storage within accessory buildings or structures shall be permitted.
7. Additional off-street parking may be required for the business.
8. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
9. All businesses related to Family Child Care Home I and Family Child Care Home II shall be licensed in accordance with Neb. Rev. Stat. §71-1902 (R.R.S. 1997).

**Section 8.02 Wireless Communication Towers**

1. Intent: Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate broadcast towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. It is the intent of the City Council to regulate telecommunication facilities, towers and antennas in the City to protect residential areas and land uses from the potential adverse impacts caused by the of installation of towers and antennas through careful design, siting, and camouflaging; to promote and encourage shared use/collocation of towers and other antenna support structures rather than allow the construction of additional single use towers; to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound; and to ensure that towers and antennas are compatible with surrounding land uses.
2. Definitions: All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

**ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.

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

**APPLICANT** shall mean any person that applies for a Tower Development Permit.

**APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation , verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.

**CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

**ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.

**OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.

**PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

**SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

**STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

**TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

1. Any Conforming Commercial Earth Station antenna six feet or less in diameter.
2. Any earth station antenna or satellite dish antenna three feet or less in diameter.

**TOWER** shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

**TOWER DEVELOPMENT PERMIT** shall mean a conditional use permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.

**TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

1. Location of Towers and Construction Standards
  - a. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
  - b. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the City Administrator's Office and shall pay a filing fee.
  - c. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this Ordinance shall conform to the Building Codes and all other construction standards set forth by City, County, federal, and state laws and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the office of the City Administrator.
2. Application to Develop a Tower: Prior to commencement of development or construction of a tower, an application shall be submitted to the City Administrator for a Tower Development Permit and shall include the following:
  - a. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
  - b. The legal description and address of the tract of land on which the tower is to be located.
  - c. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
  - d. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna

- support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
- e. Written technical evidence from an engineer that the proposed tower will meet applicable Building Codes, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
  - f. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
  - g. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
  - h. A performance bond in the amount of \$50,000 dollars for the expenses of removal and disposal of the tower.
3. Tower Development Permit: Procedure: After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 6.03 of this Ordinance. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.
4. Setbacks and Separation or Buffer Requirements
- a. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
  - b. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
  - c. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower and provided such districts provide for such use.
  - d. Towers must meet the following minimum separation requirements from other towers:
    - i. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
    - ii. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
5. Structural Standards for Towers Adopted: The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.
6. Illumination and Security Fences
- a. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of 300 percent of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.

- b. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will prevent, to the extent practical, unauthorized climbing of said structure.
7. Exterior Finish: Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Council as part of the application approval process. All towers which must be approved as a conditional use shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.
8. Landscaping: All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.
9. Maintenance, Repair or Modification of Existing Towers: All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.
10. Inspections: The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the City Administrator's Office, Zoning Administrator, or a duly appointed independent representative of the City.
11. Maintenance: The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.
12. Abandonment: If any tower shall cease to be used for a period of one year, the Administrator's Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Fullerton codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.
13. Satellite Dish Antennas, Regulation: Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Fullerton only upon compliance with the following criteria:
  - a. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
  - b. Single family residences may not have more than one satellite dish antenna over three feet in diameter.
  - c. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
  - d. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
  - e. All satellite dish antennas installed within the zoning jurisdiction of Fullerton, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

**Section 8.03 Fences and Swimming Pools**

1. No fence shall be constructed within the zoning jurisdiction of the City of Fullerton unless it is constructed in conformance with the following requirements or without a zoning permit:
2. Height Limitations: The height limitation for fences shall be 72 inches above ground level except as provided herein.
  - a. No fence shall be constructed within a required front yard of any lot, except as may be otherwise provided herein.
  - b. All fences around Junk Yards, Salvage Yards shall be a minimum of eight feet in height.
  - c. The height of a fence shall be determined by the vertical distance measured from the established grade level at the nearest sidewalk, top of curb, or other public right-of-way to the top of the highest part of the fence. Earthen berms, whether manmade or not, terraces, and retaining walls that elevate the fence shall be considered a part of the fence, and shall be included in the height of the fence. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures shall comply with the provisions of this Ordinance.
  - d. Where it is demonstrated that for security purposes the perimeter fencing around a factory or building located in an area zoned as an Industrial District must be higher than six feet in height, such fence may be approved by through a Conditional Use Permit or otherwise prescribed herein.
  - e. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
  - f. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.
3. Design Criteria/Location
  - a. Fences located within a front of a residential lot shall not exceed 48 inches in height and must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District.
  - b. No fence or vegetation shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a traffic safety hazard. No fence or vegetation shall be situated or constructed within the required sight triangle.
  - c. The use of barbed wire in the construction of any fence is prohibited except:
    - i. Perimeter security fencing of buildings constructed in a General Commercial or Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
    - ii. Farm fencing constructed for agricultural purposes on parcels of land in the Transitional Agriculture District and Residential Agriculture District.
  - d. All supporting posts for fence construction shall be set in concrete except for agricultural fencing in the Transitional Agriculture District and Residential Agriculture District.
  - e. All fences shall be maintained in good repair.
  - f. All fences shall be located inside the boundaries of the property upon which constructed except where two adjacent property owners, pursuant to written agreement filed with the City, agree to build one fence on the common lot line of adjacent side yards or back yards.
4. Electric Fences: No electric fence shall be constructed or maintained within the City of Fullerton or within its extraterritorial zoning jurisdiction except in the Transitional Agriculture District and Residential Agriculture District. This does not apply to invisible pet fences.
5. Facing: The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
6. Fences in existence as of the date of adoption of this Ordinance: Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of this Ordinance may remain without change, notwithstanding same may be in conflict with one or more provisions of this Ordinance. However, any replacement or change of said existing fence or addition of a new fence shall meet the requirements of this Ordinance.
7. Swimming Pools: All above- or in-ground swimming pools of a permanent nature constructed within the zoning jurisdiction of the City of Fullerton and of having a possible water depth of three feet or more shall comply with the regulations of the State of Nebraska Health and Human Services, shall have perimeter fencing of six feet in height, and required to obtain a zoning permit prior to construction. Such pool shall meet setbacks of accessory structures in the appropriate district.

**Section 8.04 Performance Standards for Industrial Uses**

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
2. Fire hazard: No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Fullerton.
3. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
4. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. Air Contaminants:
  - a. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
  - b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
  - c. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
  - d. Odor: The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odor as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
  - e. Gasses: The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
  - f. Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
  - g. Glare and heat: All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

**Section 8.05 Self Storage Units / Convenience Storage Units**

1. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
2. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt, rock, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
3. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
4. No storage may open into the front yards.
5. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are require, a total of 35 percent of all buffers shall be landscaped.



**Section 8.06 Auto Wrecking Yards, Junk Yards Salvage Yards and Scrap Processing Yards**

1. The use shall be located on a tract of land at least 300 hundred feet from a residential district.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded by a solid fence or wall at least eight feet high.
3. The fence or wall shall be uniform in height, texture, and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the neighborhood.
4. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No scrap, junk or other salvaged materials may be piled or stacked so to exceed the height of the enclosing fence or wall.
5. No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
6. Burning of paper, trash, junk or other materials shall be prohibited.

**ARTICLE 9: BOARD OF ADJUSTMENT**

**Section 9.01 Members, Terms and Meetings**

Pursuant to Neb. Rev. Stat. §19-908 (R.R.S. 1997): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. The first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

**Section 9.02 Appeals to Board, Record of Appeal, Hearings and Stays**

As provided in Neb. Rev. Stat. §19-909 (R.R.S. 1997): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**Section 9.03 Powers and Jurisdiction on Appeal**

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; and
2. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by this Ordinance to pass; and
3. To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

No such variance shall be authorized by the board unless it finds that:

1. The strict application of the Ordinance would produce undue hardship; and
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

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

**Section 9.04 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. §19-912, (R.R.S.1997).

**ARTICLE 10: AMENDMENTS**

**Section 10.01 Amendments**

This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those located within 300 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council. The provisions of this Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing.

1. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing.
2. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than 50 dollars or more than 100 dollars.
3. If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing.
4. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located.
5. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least ten 10 days prior to such hearing.

The provisions of this section in reference to notice shall not apply, (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district, or (2) in the event

additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

**Section 10.02 Planning Commission Review**

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission. The Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within 45 days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall, at the time that application for a change of zoning district or amendment to the zoning text is filed with the Planning Commission, deposit a fee as established by the City Council, to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

**Section 10.03 Zoning Administrator**

The provisions of this Ordinance shall be administered and enforced by a designated Zoning Administrator appointed by the City Council, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

**Section 10.04 Zoning Permits**

The following shall apply to all new construction and all applicable renovations and remodels within the zoning jurisdiction of Fullerton:

1. It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a zoning permit for such work.
2. Issuance of a zoning permit. In applying to the Zoning Administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. Applicant shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A zoning permit shall become void six months from the date of issuance unless substantial progress has been made by that date on the project described therein. Said permit may become void if substantial work has not been performed on a project for more than six months.

**Section 10.05 Certificate of Occupancy**

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within five business days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

**Section 10.06 Penalties**

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be

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guilty of a misdemeanor and may be confined in jail not more than 30 days or shall be punished by a fine not to exceed 100 dollars for any one offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

**Section 10.07 Remedies**

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

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