ZONING ORDINANCE

VILLAGE OF WAUNETA

CHASE COUNTY, NEBRASKA

Adopted 2004
Updated March 2021

TABLE OF CONTENTS

ARTICLE 1: TITLE AND PURPOSE 1

SECTION 1.01 TITLE.. 1
SECTION 1.02 PURPOSE 1

ARTICLE 2: DEFINITIONS 2

SECTION 2.01 RULES. 2
SECTION 2.02 DEFINITIONS 2

ARTICLE 3: DISTRICTS AND OFFICIAL MAP 35

SECTION 3.01 DISTRICTS 35
SECTION 3.02 PROVISION FOR OFFICIAL ZONING MAP 35

ARTICLE 4: GENERAL PROVISIONS 36

SECTION 4.01 PLANNING COMMISSION RECOMMENDATIONS 36
SECTION 4.02 DISTRICT REGULATIONS, RESTRICTIONS, BOUNDARY CREATION 36
SECTION 4.03 JURISDICTION 36
SECTION 4.04 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS 36
SECTION 4.05 ZONING AFFECTS EVERY BUILDING AND USE 36
SECTION 4.06 LOT…. 36
SECTION 4.07 REDUCTIONS IN LOT AREA PROHIBITED 36
SECTION 4.08 OBSTRUCTIONS TO VISION AT STREET INTERSECTIONS PROHIBITED 37
SECTION 4.09 YARD REQUIREMENTS 37
SECTION 4.10 DRAINAGE 37
SECTION 4.11 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS 37
SECTION 4.12 ACCESSORY BUILDING AND USES 38
SECTION 4.13 PERMITTED MODIFICATIONS OF HEIGHT REGULATIONS 41
SECTION 4.14 OCCUPANCY OF BASEMENTS AND CELLARS 41
SECTION 4.15 NON-CONFORMING, GENERAL INTENT 41
SECTION 4.16 NONCONFORMING LOTS OF RECORD 41
SECTION 4.17 NONCONFORMING STRUCTURES 41
SECTION 4.18 NONCONFORMING USES 42
SECTION 4.19 REPAIRS AND MAINTENANCE 43
SECTION 4.20 USES UNDER SPECIAL PERMIT NOT NONCONFORMING USES 43
SECTION 4.21 FEES… 43
SECTION 4.22 ANIMALS 43

ARTICLE 5: ZONING DISTRICTS 44

SECTION 5.01 DISTRICTS; USE 44
SECTION 5.02 DISTRICTS; BOUNDARIES 44
SECTION 5.03 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES 44
SECTION 5.04 ANNEXATION AND CONFORMANCE WITH THE LAND USE PLAN 45
SECTION 5.05 TA TRANSITIONAL AGRICULTURE DISTRICT 46
SECTION 5.06 RE RURAL ESTATES DISTRICT 48
SECTION 5.07 R RESIDENTIAL DISTRICT 50
SECTION 5.08 RESERVED FOR FUTURE USE 52
SECTION 5.09 C COMMERCIAL DISTRICT 53
SECTION 5.10 RESERVED FOR FUTURE USE 57
SECTION 5.11 I INDUSTRIAL DISTRICT 58
SECTION 5.12 RESERVED FOR FUTURE USE 61
SECTION 5.13 MH MOBILE HOME RESIDENTIAL DISTRICT 62
SECTION 5.14 ~~PUD PLANNED UNIT DEVELOPMENT DISTRICT~~ 64
SECTION 5.15 WAUNETA LOT AND AREA REQUIREMENTS 65

ARTICLE 6: CONDITIONAL USE PERMITS 66

SECTION 6.01 GENERAL PROVISIONS 66

SECTION 6.02 APPLICATION FOR CONDITIONAL USE PERMIT 66
SECTION 6.03 PUBLIC HEARING 66
SECTION 6.04 DECISIONS 66
SECTION 6.05 STANDARDS 66

ARTICLE 7: SUPPLEMENTAL REGULATIONS 68

SECTION 7.01 OFF-STREET & ON-STREET AUTOMOBILE STORAGE AND PARKING 68
SECTION 7.02 SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS 69
SECTION 7.03 OFF-STREET PARKING: SHARED PARKING REQUIREMENTS 70
SECTION 7.04 OFF-STREET PARKING: PARKING FOR INDIVIDUALS WITH DISABILITIES 70
SECTION 7.05 OFF-STREET PARKING DESIGN CRITERIA 71
SECTION 7.06 SIGN AREA COMPUTATION 71
SECTION 7.07 SIGN SCHEDULES 72
SECTION 7.08 SIGNS, SPECIAL CONDITIONS 73
SECTION 7.09 HOME OCCUPATIONS 73
SECTION 7.10 WIRELESS COMMUNICATION TOWERS 73
SECTION 7.11 FENCES 77
SECTION 7.12 PERFORMANCE STANDARDS FOR INDUSTRIAL USES 78
SECTION 7.13 SCREENING 79
SECTION 7.14 WIND ENERGY SYSTEMS 80
SECTION 7.15 LANDSCAPING REQUIREMENTS 81

ARTICLE 8: FLOOD PLAIN REGULATIONS 83

SECTION 8.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES 83
SECTION 8.2 ZONING ADMINISTRATOR RESPONSIBILITIES 83
SECTION 8.3 ZONING ADMINISTRATOR ADDITIONAL RESPONSIBILITIES 83
SECTION 8.4 DESIGNATION OF CURRENT FHBM/FIRM 83
SECTION 8.5 PERMITS REQUIRED 83
SECTION 8.6 DEVELOPMENT PERMIT APPLICATIONS REVIEW 84
SECTION 8.7 ALL APPLICATIONS REVIEW 84
SECTION 8.8 SUBDIVISION APPLICATION 85
SECTION 8.9 WATER & SEWAGE SYSTEMS 85
SECTION 8.10 STORAGE OF MATERIAL AND EQUIPMENT 85
SECTION 8.11 FLOOD-CARRYING CAPACITY WITHIN ANY WATERCOURSE 85
SECTION 8.12 VARIANCE PROCEDURES 85
SECTION 8.13 NON-CONFORMING USE 86
SECTION 8.14 PENALTIES FOR VIOLATION 86
SECTION 8.15 ABROGATION AND GREATER RESTRICTIONS 86
SECTION 8.16 INTERPRETATION 87
SECTION 8.17 WARNING AND DISCLAIMER OF LIABILITY 87
SECTION 8.18 ALL APPLICATIONS REVIEW 87
SECTION 8.19 APPEAL 87
SECTION 8.20 CONFLICTING ORDINANCES/RESOLUTIONS 87
SECTION 8.21 DEFINITIONS 87

ARTICLE 9: BOARD OF ADJUSTMENT 90

SECTION 9.01 MEMBERS, TERMS AND MEETINGS 90
SECTION 9.02 APPEALS TO BOARD, RECORD OF APPEAL, HEARINGS AND STAYS 90
SECTION 9.03 POWERS AND JURISDICTION ON APPEAL 90
SECTION 9.04 APPEALS TO DISTRICT COURT 91

ARTICLE 10: AMENDMENTS 92

SECTION 10.01 AMENDMENTS 92
SECTION 10.02 PLANNING & ZONING BOARD REVIEW 92
SECTION 10.03 ZONING ADMINISTRATOR 92
SECTION 10.04 ZONING PERMITS 92
SECTION 10.05 CERTIFICATE OF ZONING COMPLIANCE 93

SECTION 10.06 PENALTIES 93
SECTION 10.07 REMEDIES 93

ARTICLE 11: COMPREHENSIVE PLAN RELATIONSHIP 94

ARTICLE 12: LEGAL STATUS PROVISIONS 94

SECTION 12.01 SEPARABILITY 94
SECTION 12.02 PURPOSE OF CATCH HEADS 94
SECTION 12.03 REPEAL OF CONFLICTING ORDINANCES 94
SECTION 12.04 EFFECTIVE DATE 94

ARTICLE 1: TITLE AND PURPOSE

Section 1.01 Title

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the Village of Wauneta, Nebraska.

Section 1.02 Purpose

This ordinance has been made 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.

ARTICLE 2: DEFINITIONS

Section 2.01 Rules

For the purpose of this ordinance, the following rules shall apply:

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

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

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

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

2.01.05 The word "board" shall refer to the Planning & Zoning Board of Wauneta, Nebraska.

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

Section 2.02 Definitions

2.02.01 ***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.

2.02.02 ***ABUT*** shall mean to border on, be contiguous with or have common property or district lines, including property separated by an alley

2.02.03 ***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.

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

2.02.05 ***ACCESSORY BUILDING or STRUCTURE*** shall mean a building or structure that is constructed independently from a principal building or structure. Customary accessory buildings and structures may include farm buildings, garages, carports, storage sheds and private non-commercial storage buildings. (Amended by Ord. #2014-02, 05/13/2014)

2.02.06 ***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.

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

2.02.08 ***ADJACENT*** shall mean near, close, or abutting. For example, an Industrial District across the street or highway from a Residential District shall be considered "adjacent" to the Residential District.

2.02.09 ***ADULT ESTABLISHMENT*** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but not limited to, adult bookstores, adult companionship establishments, adult motion picture theaters, adult saunas, adult health clubs, adult

cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, and adult body painting studios.

1. ***ADULT BOOKSTORE*** shall mean a bookstore that offers its customers books, movies, or other novelty items characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."

2. ***ADULT COMPANIONSHIP ESTABLISHMENT*** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

3. ***ADULT HOTEL OR MOTEL*** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

4. ***ADULT MASSAGE PARLOR, ADULT HEALTH CLUB*** shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

5. ***ADULT MINI-MOTION PICTURE THEATER*** shall mean business premises within an enclosed building with a capacity for less than fifty (50) persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

6. ***ADULT MOTION PICTURE ARCADE*** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

7. ***ADULT MOTION PICTURE THEATER*** shall mean business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

8. ***ADULT NOVELTY BUSINESS*** shall mean a business that has as a principal activity the sale of devices that simulate human genitals or devices that are designed for sexual stimulation.

9. ***ADULT SAUNA*** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

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

2.02.11 ***AGRICULTURAL or FARM BUILDINGS*** shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, residence of the operator, residence of hired persons, 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.

2.02.12 ***AGRICULTURE*** shall mean the use of land for agricultural purposes, for obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.

2.02.13 ***ALLEY*** shall mean a minor public service street or public thoroughfare twenty feet (20') or less in width, running through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

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

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

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

2.02.17 ***ANIMAL HOSPITAL*** shall mean a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

2.02.18 ***ANIMAL, DOMESTIC*** (see Household Pet).

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

2.02.20 ***ANTIQUE 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, that is at least thirty (30) years old.

2.02.21 ***APARTMENT*** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)

2.02.22 ***APARTMENT HOUSE*** (see Dwelling, Multiple Family)

2.02.23 ***APPROPRIATE*** shall mean fitting the context of the site and the whole community.

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

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

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

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

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

2.02.29 ***BASE FLOOD*** shall mean the flood, from whatever source, having a one percent (1%) chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.

2.02.30 ***BASE FLOOD ELEVATION*** shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent (1%) or greater chance of flooding in any given year.

2.02.31 ***BASEMENT*** shall mean a building space partly or completely underground.

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

2.02.33 ***BED AND BREAKFAST INN*** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided, and the operator of which shall live on the premises.

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

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

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

2.02.37 ***BILLBOARD*** (see Sign, Billboard).

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

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

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

2.02.41 ***BOARDING OR ROOMING HOUSE*** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.

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

2.02.43 ***BREW PUB*** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging shall not exceed twenty-five percent (25%) of the total floor area of the commercial space. (Also see Brewery, Craft)

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

1. ***BREWERY, CRAFT*** shall mean a brew pub or a micro brewery

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

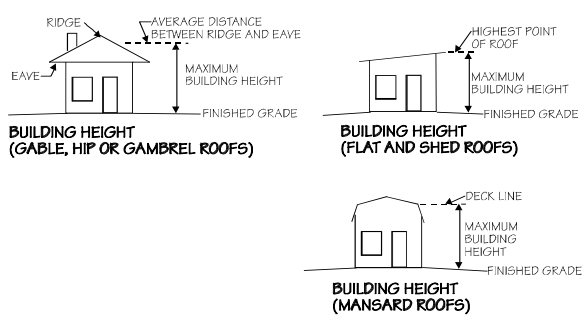
2.02.45 ***BUFFER*** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening.)

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

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

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

2.02.49 ***BUILDING HEIGHT*** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest point of a gable, hip, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet (5') horizontal distance of the exterior wall of the building.



Example 1 : Building Height Measurements

2.02.50 ***BUILDING INSPECTOR*** shall mean the Building Inspector of the Village of Wauneta, Nebraska.

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

2.02.52 ***CAR WASH*** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.

2.02.52.1 ***CARGO CONTAINER*** shall mean any container, box, transportation unit, or other container or any other container or box designed or used for the transportation of goods or materials by sea, air or land; this definition shall be limited to containers manufactured without wheels, and not attached to a chassis and without an attached running gear or axels; containers or boxes on wheels, axels or otherwise not resting directly on the surface of the ground shall not be defined as a cargo container.
(Ord. #2018-04, 11/13/2018)

2.02.53 ***CARPORT*** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

2.02.54 ***CELLAR*** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

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

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

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

2.02.58 ***CHILD CARE CENTER*** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

2.02.59 ***CHILD CARE HOME*** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8), children at any one time from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

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

2.02.61 ***CLEAR VIEW ZONE*** (See Sight Triangle.)

2.02.62 ***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.

2.02.63 ***CODE*** shall mean the Municipal Code of the Village of Wauneta, Nebraska.

2.02.64 ***COMMISSION*** shall mean the Wauneta Planning Commission.

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

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

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

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

2.02.69 ***COMPREHENSIVE PLAN*** shall mean the Comprehensive Development Plan of Wauneta, Nebraska as adopted by the Village Board, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in the Neb. Rev. Stat. §19-903 (R.R.S.1997).

2.02.70 ***CONDITIONAL USE PERMIT*** shall mean a permit issued by the Planning Commission and Village Board that authorizes the recipient to make a conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.

2.02.71 ***CONDOMINIUM*** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1996).

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

2.02.73 ***CONGREGATE HOUSING*** shall mean a residential facility for four or more persons aged fifty-five (55) years or over and their spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also, see Life Care Facility)

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

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

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

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

2.02.78 ***CONTIGUOUS*** (See Abut)

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

2.02.80 ***CORPORATE LIMITS*** shall mean all land, structures and open space that has been annexed into the Village's jurisdiction. This does not include the extraterritorial jurisdiction of the Village.

2.02.81 ***COURT*** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two (2) or more sides by such building or buildings.

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

2. ***COURT, OUTER*** shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

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

2.02.83 ***CURVE LOT*** (See "Lot, Curve")

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

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

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

2.02.87 ***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.

2.02.88 ***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.

2.02.89 ***DEVELOPMENT CONCEPT PLAN*** (See Site Plan)

2.02.90 ***DEVELOPMENT REVIEW*** shall mean the review, by the Village, of subdivision plats, site plans, rezoning requests, or permit review.

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

2.02.92 ***DOG KENNEL*** (See Kennel, Boarding or Training, and Kennel, Commercial)

2.02.93 ***DOMESTIC ANIMALS*** (See Household Pet)

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

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

2.02.96 ***DRIVE-IN FACILITY*** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

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

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

2.02.99 ***DUPLEX*** (See Dwelling, Two (2) Family)

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

1. ***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.

2. ***DWELLING, MOBILE HOME*** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by 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.
   a) Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
   b) Permanent Foundation: Base on which building rests, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.

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

4. ***DWELLING, MULTIPLE*** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other, and having separate kitchen and toilet facilities for each family.

5. ***DWELLING, SEASONAL*** shall mean a dwelling designed and used as a temporary residence and occupied less than six (6) months in each year.

6. ***DWELLING, SINGLE FAMILY*** shall mean a building having accommodations for or occupied exclusively by one family, which meets all the following standards. This definition applies to all "double-wide" mobile or manufactured homes that meet the following standards.
   a) The home shall have no less than eight hundred (800) square feet of floor area, above grade, for single story construction;
   b) The home shall have no less than a twenty foot (20') exterior width;
   c) The roof shall be pitched with a minimum vertical rise of two and one-half inches (2-1/2") for each twelve inches (12") of horizontal run;
   d) The exterior material shall be of a color, material and scale comparable with existing site-built, single family residences located in Wauneta, NE;
   e) The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
   f) The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
   g) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
   h) The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two inches (42") below the final ground level.

7. ***DWELLING, SINGLE FAMILY ATTACHED*** shall mean a portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.

8. ***DWELLING, TOWNHOUSE*** shall mean a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).

9. ***DWELLING, TWO (2) FAMILY*** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

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

2.02.102 ***EASEMENT*** shall mean a grant, made by a property owner, to the use of his or her land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

2.02.103 ***EDUCATIONAL INSTITUTION*** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.

2.02.104 ***EFFECTIVE DATE*** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.

2.02.105 ***ENCROACHMENT*** shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.

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

2.02.107 ***ERECTED*** shall mean constructed upon or moved onto a site.

2.02.107A **ETHANOL OR RENEWABLE FUEL PRODUCTION FACILITY** shall mean a production facility for ethanol, biodiesel, biomass or, a similar plant and the related storage, transportation and rail service facilities. (Ord. #2006-01, 11/14/2006)

2.02.108 ***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.

2.02.109 ***EXTRATERRITORIAL JURISDICTION*** shall mean the area beyond the corporate limits of the Village, in which the State has granted the Village the power to exercise zoning jurisdiction and building regulations.

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

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

2.02.112 ***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.

2.02.113 ***FARM*** an area containing at least twenty (20) acres or more which is used for growing or storage of the usual farm products such as vegetables, fruit, and grain, as well as for the raising thereon of the usual farm poultry and farm animals, and which produces one-thousand dollars ($1,000) or more per year of farms products raised on the premises. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

2.02.114 ***FARMSTEAD*** shall mean a tract of land of not less than two (2) acres and not more than twenty (20) acres, used for single-family residential purposes, and may include other out-buildings and barns.

2.02.115 ***FEEDLOT, COMMERCIAL*** shall mean a lot or building or combination of lots and buildings intended to be used for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure.

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

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

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

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

2.02.118 ***FLOOD PLAIN*** shall mean any land area susceptible to being inundated by water from any source (see definition of flooding).

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

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

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

2.02.122 ***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.

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

2.02.124 ***GARAGE, PRIVATE*** shall mean a detached accessory building or a portion of a main building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling.

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

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

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

2.02.128 ***GATED COMMUNITIES*** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high-end houses. The type of gates can range from elaborate guard houses to simple electronic arms.

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

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

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

2.02.132 ***GROUND COVER*** shall mean plant material used in landscaping which remains less than twelve inches (12”) in height at maturity.

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

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

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

2.02.136 ***GROUP HOUSING*** shall mean two (2) or more separate buildings on a lot, each containing one (1) or more dwelling units.

2.02.137 ***GUEST ROOM*** shall mean a room which is designed to be occupied by one (1) or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

2.02.138 ***HALF-STORY*** shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three (3) feet above the floor of such story.

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

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

2.02.143 ***HEALTH CLUB*** shall mean a privately owned facility operated for profit, such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

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

2.02.145 ***HOME IMPROVEMENT CENTER*** shall mean a facility of more than 30,000 square feet of gross floor area, engaged in retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.

2.02.146 ***HOME OCCUPATION*** shall mean an "in-home" or "home based" or entrepreneurial business operating from a residential dwelling within Wauneta. Home occupations are considered conditional uses to properties in all zoning districts. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Permit. Child Care Homes and Child Care Centers are exempt from Home Occupation Permits except for any signage restrictions.

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

2.02.148 ***HOTEL*** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes but is not limited to motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.

2.02.149 ***HOUSEHOLD PET*** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds, fish, and rodents. Household pets shall not include Large Animals, as defined in Section 2.02.167A. (Ord. #2008-01, 10/14/2008)

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

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

2.02.152 ***INDUSTRY*** shall mean the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and any storage facilities operated in conjunction with an industrial use or for a fee, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

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

2.02.154 ***INFILL SITE*** shall mean any vacant lot, parcel or tract of land within developed areas of the Village, where at least eighty percent (80%) of the land within a three-hundred feet (300') radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.

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

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

2.02.157 ***INTENT AND PURPOSE*** shall mean that the Commission and Board by the adoption of this Regulation, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.

2.02.158 ***JUICE BAR*** (See Adult Establishment.)

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

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

2.02.161 ***KENNEL, BOARDING, or TRAINING*** shall mean any lot or premises on which four (4) or more dogs or cats or any combination thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.

2.02.162 ***KENNEL, COMMERCIAL*** shall mean an establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.

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

2.02.164 ***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.

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

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

2.02.167 ***LARGE BOX RETAIL*** shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include membership wholesale clubs, emphasizing large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse-style point-of-sale concepts and department stores.

2.02.167A **LARGE ANIMAL** shall mean a cow, horse, mule, sheep, pig, goat, llama, or any other domesticated animal which is normally and historically kept and raised on farms and used or intended for use as food fiber, or farm work. (Ord #2008-01, 10/14/2008)

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

2.02.169 ***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. (Also, see Congregate Housing).

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

2.02.171 ***LIVESTOCK FEEDING OPERATION (LFO)*** shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three hundred (300) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:
One (1) A.U.= One (1) Cow/Calf combination
One (1) A.U.= One (1) Slaughter, Feeder Cattle;
One (1) A.U.= One-half (1/2) Horse;
One (1) A.U.= Seven Tenths (.7) Mature Dairy Cattle;
One (1) A.U.= Two and One Half (2.5) Swine (55 pounds or more);
One (1) A.U.= Twenty Five (25) Weaned Pigs (less than 55 pounds);
One (1) A.U.= Two (2) Sows with Litters;
One (1) A.U.= Ten (10) Sheep;
One (1) A.U.= One Hundred (100) Chickens;
One (1) A.U.= Fifty (50) Turkeys;
One (1) A.U.= Five (5) Ducks.

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

2.02.173 ***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 Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.

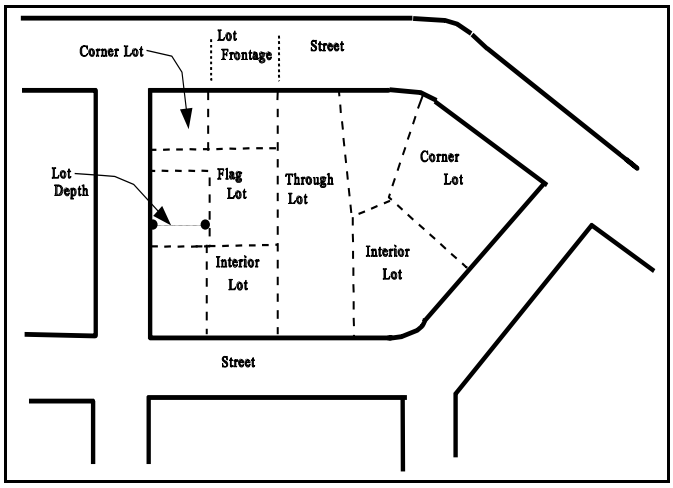
1. ***LOT, CORNER*** shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-

five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

2. ***LOT, DOUBLE FRONTAGE, or THROUGH*** shall mean a lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.

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

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



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

2.02.175 ***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.

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

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

2.02.178 ***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.

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

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

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

2.02.182 ***MANUFACTURED HOME*** (See Dwelling, Manufactured Home)

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

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

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

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

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

2.02.188 ***MINI-STORAGE OR MINI-WAREHOUSE*** (See Self-Service Storage Facility.)

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

2.02.190 ***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.

2.02.191 ***MOBILE HOME*** (See Dwelling, Mobile Home)

2.02.192 ***MOBILE HOME PARK*** (See Manufactured or Mobile Home Park.)

2.02.193 ***MOBILE HOME SUBDIVISION*** (See Manufactured or Mobile Home Subdivision.)

2.02.194 ***MOTEL*** (See Hotel.)

2.02.195 ***MOTOR VEHICLE*** shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheel chairs.

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

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

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

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

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

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

2.02.202 ***NURSING HOMES OR CONVALESCENT HOMES*** shall mean an institution or agency licensed by the State of Nebraska for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

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

2.02.204 ***OFFICIAL ZONING DISTRICT MAP*** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Wauneta Village Board.

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

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

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

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

2.02.209 ***OUTDOOR ADVERTISING*** (see "Advertising Structure" and "Sign").

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

2.02.211 ***OWNER*** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.

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

2.02.213 ***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.

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

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

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

2.02.217 ***PARKING SPACE, AUTOMOBILE*** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.

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

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

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

2.02.221 ***PERMANENT TREE PROTECTION DEVICES*** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.

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

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

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

2.02.225 ***PLANNING & Zoning Board*** shall mean the Planning Commission of Wauneta, Nebraska.

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

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

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

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

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

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

2.02.231A ***PRIVATE NON-COMMERCIAL STORAGE BUILDING*** shall mean a building or structure constructed on a lot unaccompanied by and independent from a principal building or structure and to be used for individual or family storage of personal property including but not limited to boats, campers, or automobiles. Space within private non-commercial storage buildings shall not be rented in whole or part to third-parties or used by non-owners for storage of personal property and shall not be used to store or house live animals. (Ord. #2014-02, 05/13/2014)

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

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

2.02.234 ***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.

2.02.235 ***PUBLIC WATER SUPPLY*** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

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

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

2.02.238 ***RECREATIONAL VEHICLE (RV)*** shall mean a vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

2.02.239 ***RECREATIONAL VEHICLE (RV) PARK*** shall mean a tract of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

2.02.240 ***RESIDENCE*** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.

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

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

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

3. ***RESTAURANT, FAST FOOD*** shall mean a restaurant establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.

2.02.242 ***RETAIL TRADE*** shall mean selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Businesses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

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

2.02.244 ***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.

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

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

2.02.247 ***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.

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

2.02.249 ***ROAD, PUBLIC*** shall mean all public rights-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)

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

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

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

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

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

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

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

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

2.02.258 ***SEPTIC SITE*** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

2.02.259 ***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.

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

2.02.261 ***SETBACK LINE, FRONT YARD*** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.

2.02.262 ***SETBACK LINE, REAR YARD*** shall mean the line which defines the depth of the required rear yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.

2.02.263 ***SETBACK LINE, SIDE YARD*** shall mean the line which defines the width of the required side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.

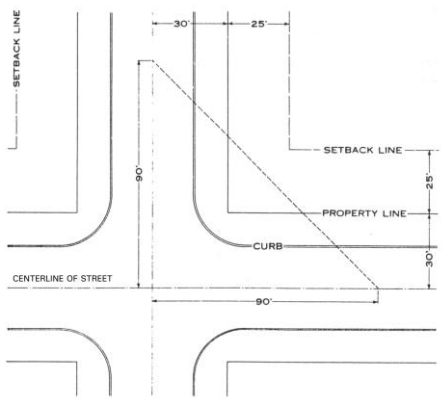
2.02.264 ***SHOPPING CENTER*** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the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

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

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

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

2.02.268 ***SIGHT TRIANGLE*** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet (2 ½') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty feet (60') in each direction along the centerline of the streets.



Sight Triangle

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

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

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

2.02.272 ***SIGN, ANNOUNCEMENT*** shall mean a small sign, not over six (6) square feet in area, except that an announcement sign or bulletin board not over eighteen (18) square feet in area, set back at least twenty (20) feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.

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

Sign, Architectural Canopy
Sign, Awning or Canopy

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

2.02.275 ***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

2.02.276 ***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.

2.02.277 ***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.

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

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

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

2.02.281 ***SIGN, CLOSED*** shall mean a sign in which more than fifty percent (50%) of the entire area is solid or tightly closed or covered.

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

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

2.02.284 ***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.

2.02.285 ***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.

2.02.286 ***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.

2.02.287 ***SIGN, GROUND*** shall mean a sign mounted directly to the ground with a maximum height not to exceed six (6) feet.

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

2.02.289 ***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.

2.02.290 ***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.

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

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

2.02.293 ***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 (6) months after the termination of the existence of such business or the termination of sale of the product advertised.

2.02.294 ***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.

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

Sign, Billboard
Sign, Off-Premises

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

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

2.02.298 ***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 (6) feet or more above grade.

2.02.299 ***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 of the business.

2.02.300 ***SIGN, PROJECTING*** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight (8) inches beyond the surface of such building or wall.

Sign, Projecting

2.02.301 ***SIGN, REAL ESTATE*** shall mean a temporary sign that identifies property or properties that are for sale or lease.

2.02.302 ***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.

2.02.303 ***SIGN, ROOF (INTEGRAL)*** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

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

2.02.305 ***SIGN, SUBDIVISION*** identification shall mean a sign erected on a subdivision identification lot that identifies the platted subdivision where the sign is located.

2.02.306 ***SIGN, SURFACE*** shall mean the entire area of a sign.

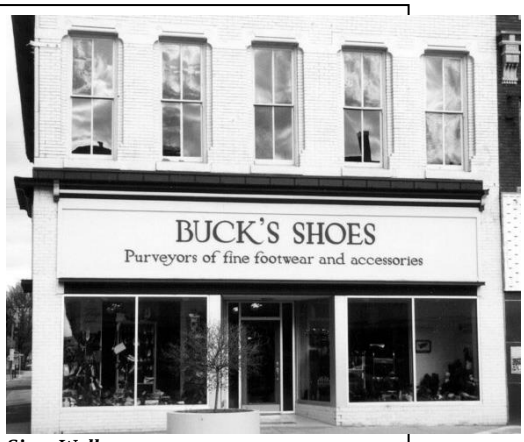
2.02.307 ***SIGN, SUSPENDED*** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Sign, Subdivision

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

2.02.309 ***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.

2.02.310 ***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.



Sign, Wall

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

2.02.312 ***SITE BREAK*** shall mean a structural or landscape device used to interrupt long vistas and create visual interest in a site development.

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

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

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

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

2.02.317 ***SKATEBOARD or HALF PIPE*** shall mean an outdoor structure that is shaped into a half circle or oval, that is designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

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

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

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

2.02.321 ***SPECIFIED ANATOMICAL AREAS*** shall mean anatomical areas consisting of:

a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,

b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2.02.322 ***SPECIFIED SEXUAL ACTIVITIES*** shall mean activities consisting of the following:

a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

b) Clearly depicted human genitals in the state of sexual stimulation, arousal, tumescence; or

c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, masturbation; or

d) Fondling or touching of nude human genitals, pubic region, buttocks, female breast(s); or

e) Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or

f) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or

g) Human excretion, urination, menstruation, vaginal, or anal irrigation.

2.02.323 ***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.

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

2.02.325 ***STOCKPILING*** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.

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

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

2.02.328 ***STORMWATER DETENTION*** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

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

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

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

2.02.332 ***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.

2.02.333 ***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.

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

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

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

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

5. ***STREET, LOOPED*** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.

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

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

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

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

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

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

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

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

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

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

2.02.341 ***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.

2.02.342 ***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.

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

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

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

2.02.346 ***TAVERN*** (See Bar.)

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

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

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

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

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

2.02.352 ***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 (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.

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

2.02.354 ***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.

2.02.355 ***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.

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

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

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

4. ***USE, NONCONFORMING*** shall mean a use that was valid and legal when brought into existence, but by subsequent regulation becomes no longer conforming.

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

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

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

2.02.358 ***UTILITY EASEMENT*** (See Easement)

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

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

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

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

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

2.02.364 ***VEGETATION*** shall mean trees, shrubs, and vines.

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

2.02.366 ***VEHICLE, MOTOR*** (See Motor Vehicle.)

2.02.367 ***VISUAL OBSTRUCTION*** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two (2) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet.

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

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

2.02.370 ***WASTEWATER LAGOON*** (See Lagoon.)

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

2.02.372 ***WATERS OF THE STATE*** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells,

springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

2.02.373 ***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, commonly known as hydrophytic vegetation.

1. ***SALINE WETLAND*** shall mean an area that is saturated by salty soils and water at a frequency and duration sufficient to support, and that, under normal circumstances, does support a prevalence of salt-tolerant vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

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

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

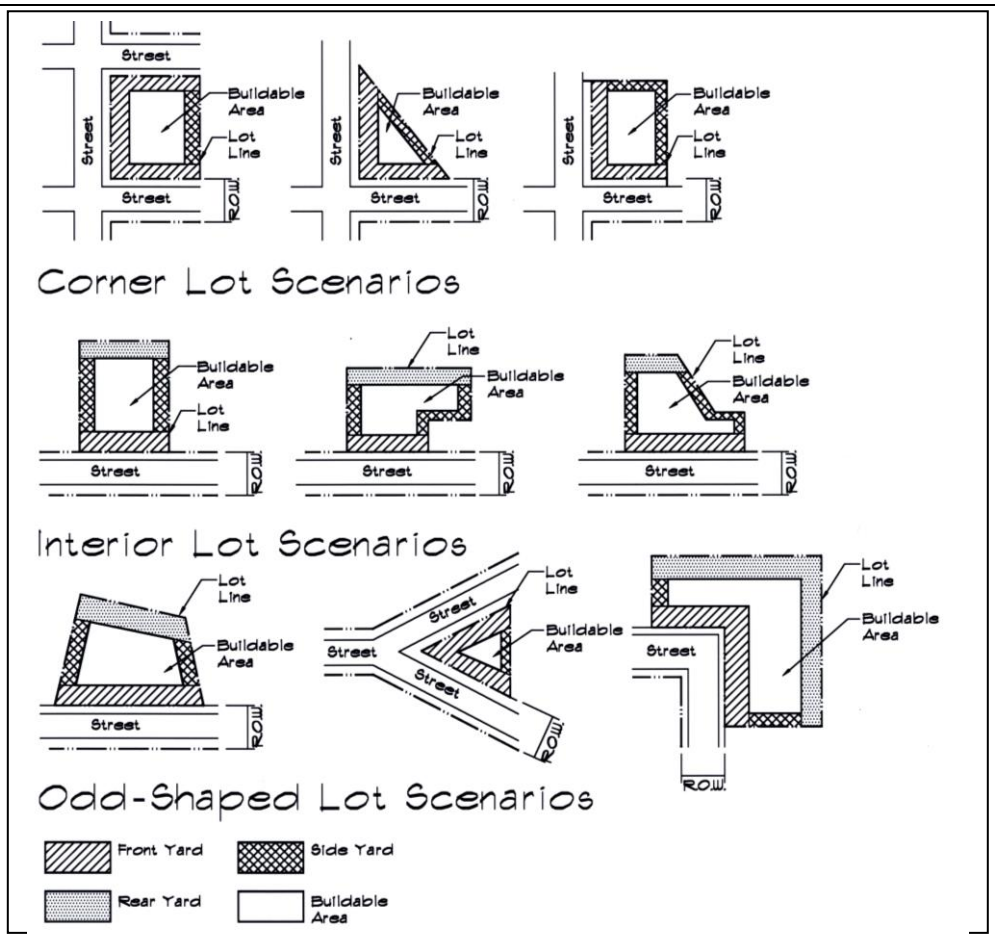
2.02.376 ***WIRELESS COMMUNICATION TOWER*** shall mean a structure for the transmission or broadcast of cellular, radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty feet (50') in height shall not be considered wireless communication towers.

2.02.377 ***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 highway setback line, and extending the full width 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 Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.



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

2.02.379 ***ZONING BOARD*** shall mean the zoning board for the Village of Wauneta, Nebraska

2.02.380 ***ZONING DISTRICT*** (See District)

2.02.381 ***ZONING DISTRICT, CHANGE OF*** shall mean the legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the zone map of the Village.

ARTICLE 3: DISTRICTS AND OFFICIAL MAP

Section 3.01 Districts

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the Village and the area within one (1) mile of the corporate boundaries, the Village is hereby divided into districts.

Section 3.02 Provision for Official Zoning Map

3.02.01 The Village 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 Village Clerk, and bearing the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. ***(**) of the Village of Wauneta, 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 Village Board.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Village Board 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 Village Clerk and bearing the seal of the Village under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted *** (Ordinance No. *** (**) of the Village of Wauneta Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE 4: GENERAL PROVISIONS

Section 4.01 Planning Commission Recommendations

Pursuant to Neb. Rev. Stat. §19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the Village.

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

Section 4.02 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the Village at least one (1) time ten (10) days prior to such hearing.

Section 4.03 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the Village of Wauneta, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one (1) mile, as established on the map entitled "The Official Zoning Map of the Village of Wauneta, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance 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 4.05 Zoning Affects Every Building and Use

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

Section 4.06 Lot

4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.

4.06.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the Village Board.

- 4.06.02.01 Institutional buildings
- 4.06.02.02 Public or semi-public buildings
- 4.06.02.03 Multiple-family dwellings
- 4.06.02.04 Commercial or industrial buildings
- 4.06.02.05 Home for the aged
- 4.06.02.06 Agricultural buildings

Section 4.07 Reductions in Lot Area Prohibited

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.08 Obstructions to Vision at Street Intersections Prohibited

On a corner lot, within the area formed by the center line of streets at a distance of sixty feet (60') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2 ½') and a height of ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the sixty foot (60') distance shall be increased to ninety feet (90') for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. See "Sight Triangle," as defined in Article 2 of this Ordinance.

Section 4.09 Yard Requirements

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

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

4.09.03 The 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 1.) more than thirty percent (30%) of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) a minority of such structures have observed or conformed to an average setback line.

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

4.09.05 Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District which is adjacent to any residential use or district shall be increased to forty feet (40') and shall contain landscaping and planting suitable to provide effective screening; except in the Downtown Commercial District. Included in the increased yard, a solid or semi-solid fence or wall at least six feet (6'), but not more than eight feet (8') high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

Section 4.10 Drainage

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

Section 4.11 Permitted Obstructions in Required Yards

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

4.11.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting twenty-four inches (24") or less into the yard; recreational equipment and clothes lines; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen inches (18") into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.

4.11.02 *Front Yards:* Bay windows projecting three feet (3') or less into the yard are permitted.

4.11.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.

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

4.11.05 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

Section 4.12 Accessory Building and Uses

4.12.01 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction. However, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.

4.12.02 (Reserve for Future Use) (Ord. #2014-02, 5/13/2014)

4.12.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.

4.12.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet (10'), except for carports.

4.12.05 Detached accessory structures utilized as carports shall be located closer to any other accessory or principal building than five feet (5').

4.12.06 Unless a conditional use permit for such structure is issued under Section 6.05.13 of this Zoning Ordinance, detached garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction and shall further comply with the following: (Ord. #2011-05, 8/9/2011)

- 4.12.06.01 Be constructed of materials that are in good repair,
- 4.12.06.02 Accessory Buildings shall not exceed a height of twenty-five feet (25'), unless a conditional use permit is approved as provided in Section 5.07.03(6) or Section 5.08.03(6). (Ord. #2014-02, 5/13/2014)
- 4.12.06.03 Roofs shall be pitched or gabled,
- 4.12.06.04 Garages shall have an overhang of at least six inches (6"),
- 4.12.06.05 Garages shall have a maximum width of thirty six feet (36'),
- 4.12.06.06 Garages shall be constructed and finished in materials customary to residential construction,
- 4.12.06.07 Garages, carports, or outbuildings shall not be quonset buildings,
- 4.12.06.08 The exterior color of accessory buildings shall either be white or the color of the principal building, and shall not contain any advertising or other lettering.

4.12.07 Regulation of accessory uses shall be as follows:

- 4.12.07.01 Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- 4.12.07.02 In cases where the entrance of an accessory structure faces an alley, or if an accessory building requires vehicle access from an alley, the accessory structure shall be located a minimum of 15 feet from the rear property line, unless otherwise specifically permitted.
- 4.12.07.03 Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen feet (15') from street lines.
- 4.12.07.04 Storage of any boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required front yard or any side yard that is located to the front of the principal structure.
- 4.12.07.05 Trash receptacles shall not be permitted in any required front yard or any required side yard that is located to the front of the principal structure except on the appropriate collection day.

4.12.08 The following regulations shall apply to the placement of cargo containers in the jurisdictional area: (Section 4.12.08 added by Ord. #2018-04, 11/13/2018)

- 4.12.08.01 Cargo containers may be placed in the jurisdictional area only as permitted by this Zoning Ordinance.
- 4.12.08.02 Cargo containers may be placed in the jurisdictional area only after applying for and obtaining a building permit; application shall be made as specified in this Zoning Ordinance.
- 4.12.08.03 Cargo containers shall <u>not</u> be permitted in the jurisdictional area, except for temporary usage as defined in this Zoning Ordinance, on any property which is located in any residential district, to include "RE" and "R" and "MH". (Ord. #2021-01, 3/9/2021)
- 4.12.08.04 Cargo containers shall be permitted on any commercial property zoned as "C", except that cargo containers are prohibited in the following areas:
  - A. Lots 7 through 26 of Block 1, Original Town
  - B. Lots 1 through 8 of Block 2, Original Town
  - C. The east half of Blocks 5 & 8, Original Town
  - D. The west half of Block 7, Original Town

  (Ord. #2021-01, 3/9/2021)

4.12.08.05 Cargo containers may be placed in the "TA" and "I" Districts, subject to the regulations and requirements provided in this Zoning Ordinance. (Ord. #2021-01, 3/9/2021)

4.12.08.06 All cargo containers placed in the jurisdictional area shall meet the following requirements:

a. Cargo container must be painted one solid neutral color or a color complimentary to other building(s) on the property;
   i. Applicants who receive a building permit for a cargo container shall have 30 days from the time of placement of the cargo container on applicant's property to paint the cargo container to meet the requirements of this section; the building inspector may grant an extension of up to 30 days to comply with painting requirements due to weather conditions.
b. Cargo containers shall not be placed in any area designated as a lot setback and shall not interfere with visibility for vehicle or foot traffic.
c. Cargo containers may not be placed in areas which are required as building setbacks for conventional buildings.
d. Cargo containers must have the following setbacks to other cargo containers:
   i. There must be a five foot (5') setback between adjacent cargo containers;
   ii. Notwithstanding the foregoing sub-subsection (d)(i) up to four (4) cargo containers may be placed immediately adjacent to each other in a manner that does not allow for any space or gap between the containers .
e. Each individual cargo container may not exceed eight feet six inches (8'6") in width; nine feet six inches (9'6") in height; by fifty-three feet (53') in length.
f. Cargo containers must be maintained in good repair and cannot have holes in the sides or top of the cargo container; cargo containers cannot have visible rust covered areas; containers that are properly placed with a building permit must be maintained to meet the requirements of this section; cargo containers not in compliance may be declared a nuisance by the governing body and abated.
g. Any cargo container supplied with electrical service must meet all applicable electrical codes for conventional buildings.
h. Cargo containers may not be connected to municipal water supply or to municipal sewers.
i. Cargo containers must be placed on packed gravel base; packed crushed rock base or concrete slab; bases prepared for cargo containers must be level and provide proper drainage.
j. Cargo containers may only be placed with the floor of the cargo container resting directly on the surface of the pad required by this zoning ordinance; cargo containers may not be buried or placed below grade, stacked on other containers or otherwise placed in any other manner other than with the floor of the container resting on the prepared pad.

4.12.08.07 Number of cargo containers; the number of cargo containers on each recorded lot or legal description shall be limited as follows:

a. Properties in the "I" zoning area shall be limited to no more than eight cargo containers.
b. Properties in the "C" zoning area shall be limited to four cargo containers., except that cargo containers are <u>prohibited</u> in the following areas:
   A. Lots 7 through 26 of Block 1, Original Town
   B. Lots 1 through 8 of Block 2, Original Town
   C. The east half of Blocks 5 & 8, Original Town
   D. The west half of Block 7, Original Town
c. Properties in the "TA" zoning area shall be limited to four cargo containers

(Ord. #2021-01, 3/92021)

4.12.08.08 A conditional use permit for existing cargo containers and trailers; cargo containers and semi-trailers which existed in the jurisdiction of the governing body may be permitted to remain provided landowner obtains a conditional use permit as detailed in this subsection.

a. All cargo containers and semi-trailers which were in place prior to November 13, 2018 in the zoning jurisdiction of the governing body are eligible to receive a conditional use

permit upon the landowner's compliance with the requirements of this ordinance; section 4.12.08.06.

b. Landowners may make application for a conditional use permit within 120 days of the effective date of this section; conditional use permits shall be available from the Village clerk.
c. Landowners must paint cargo containers and trailers in accordance with this zoning ordinance regarding cargo containers before a conditional use permit may be issued.
d. Cargo containers and trailers must be inspected by the Zoning Administrator prior to the issuance of a conditional use permit.
   i. Zoning Administrator shall determine if there is any burrowing activity under the existing cargo container by any animal. If the Zoning Administrator finds evidence of burrowing under existing cargo containers then landowner must place cargo container on a foundation as required by this zoning ordinance regarding cargo containers.
   ii. Conditional use permits may be denied if Zoning Administrator finds the cargo container or trailer poses a danger due to fire access to any property.
   iii. If Zoning Administrator finds no burrowing activity and no problems with fire access due to the location of the cargo container or trailer then existing cargo container or trailer may be issued a conditional use permit.
e. All work, inspections and other requirements must be completed within 180 days of the effective date of this ordinance. No conditional use permits shall be issued more than 180 days from the effective date of this ordinance. Cargo containers and trailers which do not have a conditional use permit from the governing authority shall be considered non-compliant structures and may be required to be removed or otherwise brought into compliance by the governing body.
f. Cargo containers and trailers issued a conditional use permit may not be replaced if destroyed.
g. Cargo containers and trailers issued a conditional use permit may not be:
   i. Moved or relocated in whole or in part;
   ii. Enlarged or extended in any manner;
   iii. Replaced or repaired of the value of the repairs required exceeds 50% of the value of the replacement value; when repairs to cargo containers or trailers are in excess of 50% of the replacement value then the cargo container or trailer must be removed.
   iv. Connected to electrical supply if not connected on November 13, 2018.

4.12.09 Cargo Containers. Notwithstanding any provisions of this Zoning Ordinance, the temporary use of cargo containers is allowed in all zoning districts in the jurisdictional area subject to the following restrictions: (Section 4.12.09 added by Ord. #2018-04, 11/13/2018)

4.12.09.01 Temporary use of cargo containers is limited to 60 days per calendar year on any individual property.

4.12.09.02 Cargo containers may be used as temporary storage; van trailers, and other trailers with attached wheels and/or axles may also be used for temporary storage.

4.12.09.03 Applicants must apply for a permit for temporary use of cargo containers or trailer. Applications shall be available from the Village Clerk. Applications must state the reason temporary storage is needed.

4.12.09.04 The Zoning Administrator shall issue or deny permits for temporary use of cargo containers or trailers. Permits for temporary use of a cargo container or trailer for temporary storage may be denied if the building inspector determines the proposed temporary placement interferes with fire access, traffic visibility, traffic flows. Permits for temporary use of a cargo container or trailer may be denied if the applicant cannot demonstrate compelling reasons temporary storage is needed by the applicant. Applicants denied a permit may appeal to the board of adjustment.

4.12.09.05 Cargo containers used for temporary purposes may not exceed eight feet six inches (8’6”) in width; nine feet six inches (9’6”) in height; by fifty-three feet (53’) in length. Trailers used for temporary storage may not exceed fifty-three feet (53’) in length; eight feet six inches (8’6”) in width; and fourteen feet (14’) in height.

4.12.09.06 No site preparation or foundation is required for cargo containers or trailers used as temporary storage.

4.12.09.07 Cargo containers or trailers which remain in place for more than 60 days may be impounded by the governing body. Applicants must pay for impounding costs and fees to reclaim the cargo container or trailer.

4.12.09.08 Placement of cargo containers for temporary uses shall not interfere with vehicle or pedestrian traffic or any public right-of-way.

Section 4.13 Permitted Modifications of Height Regulations

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

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio/Television Towers less than 125 feet tall
Flag Poles	Silos
Conveyors	Cooling Towers
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Air-Pollution Prevention Devices	

Provided that the appropriate yard setbacks are increased by one foot (1') for every two feet (2') in excess of the maximum height requirement for the given zoning district.

4.13.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five feet (75') when each required yard line is increased by at least one foot (1') for each one foot (1') of additional building height above the height regulations for the district in which the building is located.

Section 4.14 Occupancy of Basements and Cellars

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, and any required emergency egress requirements of the Village of Wauneta have been complied with.

Section 4.15 Non-Conforming, General Intent

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

Section 4.16 Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

Section 4.17 Nonconforming Structures

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

4.17.02 *Termination of nonconforming rights:* If any such nonconforming use of a structure ceases for any reason for a period of more than twelve (12) months, any subsequent use of such structure shall conform to the regulations specified by this ordinance for the district in which such land is located.

4.17.03 *Enlargement, Repair, Alterations:* Any such structure described in Section 4.17.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by special permit unless otherwise approved or as specified in the Residential District.

4.17.04 *Damage or Destruction:* In the event that any structure described in Section 4.17.01 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.16, shall not have a side yard of less than five feet (5'). When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

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

Section 4.18 Nonconforming Uses

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

4.18.01.01 No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment or this ordinance;

4.18.01.02 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

4.18.01.03 If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

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

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

4.18.02.02 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;

4.18.02.03 If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;

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

4.18.02.05 When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;

4.18.02.06 Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 4.19 Repairs and Maintenance

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

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

Section 4.20 Uses under Special Permit not Nonconforming Uses

Any use for which a special 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 4.21 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 and published by the Village Board by separate Ordinance.

Section 4.22 Animals

(Ord #2008-01, 10/14/2008)

4.22.01 Household pets shall be permitted in any dwelling, dwelling unit or mobile home which is a Permitted Use or Permitted Conditional Use in any District, provided, however, no more than two (2) adult dogs and two (2) adult cats may be kept, owned, or harbored at any dwelling, dwelling unit or mobile home.

4.22.02 It shall be unlawful for any person or persons to own, keep, or harbor any Large Animal in any District within the corporate limits of the Village of Wauneta unless otherwise permitted in the Transitional Agriculture District section 5.05.05(2) or in the Rural Estates District under section 5.06.02(1).

4.22.03 Any Large Animal that is owned, kept, or harbored in any District within the corporate limits of the Village of Wauneta prior to the effective date of this ordinance shall be deemed to be a nonconforming use and shall remain a nonconforming use for the remainder of its life. No additional Large Animals, including offspring of any Large Animals permitted as a nonconforming use, shall be permitted on or after the effective date of this ordinance.

ARTICLE 5: ZONING DISTRICTS

5.01	Districts; Use	
5.02	Districts; Boundaries	
5.03	Rules for Interpretation of District Boundaries	
5.04	Annexation and Conformance with Land Use Plan	
5.05	District (TA)	Transitional Agriculture District
5.06	District (RE)	Rural Estates District
5.07	District (R)	Residential District
5.08	Reserved for Future Use	
5.09	District (C)	Commercial District
5.10	Reserved for Future Use	
5.11	District (I)	Industrial District
5.12	Reserved for Future Use	
5.13	District (MH)	Mobile Home Residential (overlay)
5.14	~~District (PUD)~~	~~Planned Unit Development~~
5.15	Wauneta Lot and Area Requirements	

NOTE: Article 5: Zoning Districts has been amended by Ordinance #2021-01, 3/9/2021. Any references within the Zoning Ordinance to:

1. LDR or MHDR, shall be construed to mean "R" (Residential)
2. C1 or C2, shall be construed to mean "C" (Commercial)
3. I1 or I2, shall be construed to mean "I" (Industrial)

Section 5.01 Districts; Use
(Amended by Ord. #2021-01, 3/9/2021)

For the purpose of this Chapter, the Municipality is hereby divided into six (6) districts, designated as follows:

(TA)	Transitional Agriculture
(RE)	Rural Estates
(R)	Residential
(C)	Commercial District
(I)	Industrial District
(MH)	Mobile Home Residential (overlay)

Section 5.02 Districts; Boundaries

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

Section 5.03 Rules for Interpretation of District Boundaries

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

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

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

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

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

5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries

indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

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

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

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

Section 5.04 Annexation and Conformance with the Land Use Plan

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

Section 5.05 TA Transitional Agriculture District

5.05.01 *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.

5.05.02 *Permitted Uses:*

1. Farming, pasturing, orchards, greenhouses and nurseries, including the sale and distribution of agricultural products, excluding the sale and distribution of chemicals.
2. Farms for breeding, raising, and selling wild game, fish and livestock, provided that no livestock feedlot or yard for more than twenty (20) animals shall be established, also provided that any building for the enclosure or shelter of animals shall be setback at least one hundred feet (100') from all street and lot lines.
3. Farm dwellings for the owners and their families, tenants, and employees.
4. Roadside stands and truck gardens offering for sale agriculture products.
5. Public services, including fire and police department facilities.
6. Storage barns.
7. Churches.
8. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
9. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries or museums.
10. Private clubs or organizations not operated for profit.
11. Educational, religious, or philanthropic institutions, but not including penal or mental institutions located on more than ten acres.
12. Nursing homes.
13. Grain Elevators, feed mills, alfalfa mills, or similar agricultural product processing mills including Ethanol or Renewable Fuel Production Plants provided any such Ethanol or Renewable Fuel Production Plant contains or meets the following criteria; 1) is located on a site containing at a minimum, 100 acres; 2) is located adjacent and has access to a surfaced state highway; and 3) is located adjacent to and has access to rail service. (Ord #2006-01, 11/14/2006)

5.05.03 *Permitted Conditional Uses:*

1. Farms for breeding, raising, and selling wild game, fish and livestock, on feedlots or yards for twenty (20) or more animals within the corporate boundary, provided that any building for the enclosure or shelter of animals shall be setback at least one hundred feet (100') from all street and lot lines.
2. Single family dwelling.
3. Farm implement and machinery sales, service, and repair.
4. Private schools, including nursery, pre-kindergarten, play, and special schools.
5. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes, provided that such building occupy no more than forty percent (40%) of the total area of the lot and will not have a serious or depreciating effect upon the value of the surrounding property values. Further, such building shall be set back an additional one (1) foot for every foot of building height, and adequate off-street parking shall be provided on site.
6. Public overhead and underground local distribution utilities.
7. Wastewater treatment facilities.
8. Forests and Conservation Areas.
9. Cemeteries or mausoleums, provided all structures are located at least one hundred (100) feet from all property lines.
10. Commercial recreation areas and facilities, such as swimming pools, fishing lakes, campgrounds, recreational vehicle facilities, and gun clubs.
11. Radio, television and wireless communication towers and transmitters, pursuant to Section 7.10.
12. Airports.
13. Public and private riding academies, provided that no stable, building or structure in which horses or other animals are housed may be closer than three hundred feet (300') to any residential district.

14. Private stables and facilities for housing animals and fowl for non-commercial purposes, provided that all buildings shall be no closer than three hundred feet (300') to any residential district.
15. Private or Commercial kennels or facilities for the raising, breeding, or boarding of dogs and other small animals provided that such facility is located a minimum of one hundred feet (100') from the property line and a minimum of three hundred feet (300') away from the nearest residential zoning district.
16. Home occupations, pursuant to Section 7.09.
17. Veterinarians' offices and hospitals.
18. Buildings and facilities for the raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
19. Wind energy systems, pursuant to Section 7.14.

5.05.04 *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home Occupation.
3. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
4. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
5. Signs pursuant to Sections 7.06 through 7.08.
6. Parking pursuant to Sections 7.01 through 7.05.
7. Fences pursuant to Section 7.11.
8. Storage or parking of vehicles, boats, campers and trailers, pursuant to Section 4.12.

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

Use	Lot Area (acres)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Farm	20	250'	30'	25'	35'	45'	-
Storage Barns associated with a Farm	-	-	100'	25'	10'	-	-
Acreage	3	200'	35'	25'	35'	25'	-
Single-Family	3	200'	35'	25'	35'	35'	-
Other Permitted Uses	10	250'	30'	25'	35'	45'	-
Other Permitted Conditional Uses	10	250'	30'	25'	35'	45'	-
Accessory Uses	-	-	100'	25'	10'	17'	-
Ethanol or Renewable Fuel Production Facility (Ord. #2006-01, 11/14/2006)	100 acres	N/A	50' Except where closer proximity is necessary for rail service	25'	25'	N/A	N/A

Section 5.06 RE Rural Estates District

5.06.01 *Intent:* The Rural Estates Zoning 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 1) not in the identified growth areas for the community, and 2) accommodating very low density residential development the district is designed to limit urban growth.

5.06.02 *Permitted Uses:*

1. Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than ten (10) animals shall be established.
2. Farm dwellings for the owners and their families, tenants, and employees.
3. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
4. Railroads, not including switching, terminal facilities or freight yards.
5. Public overhead and underground local distribution utilities.
6. Single family dwelling.
7. Manufactured Housing, provided the unit is placed on a permanent foundation and utilized for residential purposes
8. Public services.
9. Publicly owned and operated facilities.
10. Roadside stands offering agriculture products for human consumption for sale on the premises.

5.06.03 *Permitted Conditional Uses*:

1. Radio, television and wireless communication towers and transmitters, as per Section 7.10.
2. Cemeteries, provided all structures are located at least one hundred (100) feet from all property lines.
3. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
4. Home occupations, as per Section 7.09.
5. Construction batch plants that are temporary in nature.
6. Mobile Homes, provided the unit is placed on a permanent foundation and utilized for residential purposes.
7. Accessory Buildings that do not comply with Section 4.12.06 of this Zoning Ordinance. (Ord #2011-05, 8/09/2011)

5.06.04 *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses and comply with Section 4.12 of this Zoning Ordinance, provided they are located to the rear or side of the primary structure. (Ord #2011-05, 8/09/2011)
2. Temporary buildings associated with construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Section 7.06 through 7.08.
4. Parking as provided for in Section 7.01 through 7.05.
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
6. Raising and care of animals for 4-H, Future Farmers of America (FFA) or other rural/school organizations, provided that there are no more than five (5) animals are kept on the premises for such purposes.
7. Storage or parking of vehicles, boats, campers and trailer, as per Section 4.12.
8. Incidental public safety uses such as emergency sirens.

5.06.05 *Height and Lot Requirements*:

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

Uses	**Lot Area (Acres)**	**Lot Width**	**Front Yard**	**Side Yard**	**Rear Yard**	**Max. Height**	**Max. Lot Coverage**
Residential Dwelling	1-3[1]	-	90’	50’	25’	-	-
Other Permitted Uses	1-3[1]	-	90’	50’	25’	-	-
Conditional Uses	1-3[1]	-	90’	50’	25’	-	-
Accessory Buildings	-	-	90’	50’	10’	-	-

1 One acre minimum with public water and sewer, three acre minimum for lots with septic systems

2 Minimum distance between accessory and primary structures shall be 25 feet.

Section 5.07 R Residential District
(Updated per Ord. #2021-01, 3/9/2021)

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

5.07.02 *Permitted Uses*:

1. Single family dwellings
2. Two Family, duplex, dwellings
3. Public and private schools
4. Publicly owned and operated facilities
5. Public Services
6. Public and private recreation areas such as, country clubs, golf courses, lakes, common areas and swimming pools
7. Townhouses, Condominiums, and multiple family dwellings
8. Child Care
9. Private Non-Commercial Storage Buildings (Ord # 2014-02, 5/14/2014)
10. Private Non-Commercial green house, that meets height and lot requirements of accessory buildings shown in section 5.07.05.

5.07.03 *Permitted Conditional Uses*:

1. Bed and breakfasts, provided that guest rooms shall be within the principal residential building only and not within an accessory building.
2. Churches, temples, seminaries, convents, including residences for teachers and pastors.
3. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
4. Public utility substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar uses.
5. Home Occupations, as per Section 7.09.
6. Child Care Center
7. Congregate Housing
8. Emergency Shelters
9. Charitable clubs and organizations
10. Group care home
11. Community center
12. Accessory Buildings that do not comply with Section 4.12.06 of this Zoning Ordinance (Ord #2011-05, 8/9/2011)
13. Private Non-Commercial Storage Buildings which exceed a height of twenty five (25) feet. (Ord #2011-05, 8/9/2011)
14. Self Storage Garages for Commercial use.

5.07.04 *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses and comply with Section 4.12 of this Zoning Ordinance. (Ord #2011-05, 8/9/2011)
2. Decks and/or elevated patios, either attached or detached
3. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
4. Signs allowed in Section 7.06 through 7.08.
5. Parking for permitted uses as per Section 7.01 through 7.05.
6. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
7. Landscaping as required by Section 7.15
8. Incidental public safety uses such as emergency sirens.

5.07.05 *Height and Lot Requirements*:
(Updated by Ord. #2023-04, 12/12/2023)

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

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Single-family Dwelling	6,500	50’	20’	(2)	20’	45’	45%
Two-family Dwelling	7,500(4)	50’	20’	(2),(3)	20’	45’	45%
Multiple Family Dwellings	7,500(4)	50’	20’	(2),(3)	20’	45’	45%
Other Permitted and Conditional Uses	7,500	50’	20’	(2)	20’	45’	30%
Accessory Buildings	-	-	-	5’	5’	17’	10% (1)
Private Non-Commercial Storage Buildings	-	-	20’	5’	5’	25’	40%

(1) Provided total area of accessory structure for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and attached structures does not exceed 50%.

(2) Side yards for interior lots – the total of both side yards shall not be less than 15 feet with one side being a minimum of 5 feet. Side yards for corner lots – 10 feet adjacent to the street, not less than 5 feet on the opposite side.

(3) The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.

(4) Provided that the minimum lot area per unit shall be 2,500 square feet.

Section 5.08 Reserved for Future Use
(Ord. #2021-01, 3/9/2021)

Section 5.09 C Commercial District
(Updated per Ord. #2021-01, 3/9/2021)

5.09.01 *Intent:* The 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.

5.09.02 *Permitted Uses:*

1. Business services including: attorneys, banks, insurance, real estate offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
2. Retail business or service establishments supplying commodities or performing services, such as, or in compatibility with and including the following:
   - A. Antique store
   - B. Automobile parts and supply store
   - C. Bank
   - D. Barber or Beauty shop
   - E. Bicycle shop
   - F. Book store, not including uses defined under "Adult Establishment"
   - G. Bowling alley, not including uses defined under "Adult Establishment", provided any such building is located at least one hundred feet (100') away from any Residential District boundary.
   - H. Brew-on premises store
   - I. Bus Terminal
   - J. Business Offices
   - K. Commercial greenhouse
   - L. Community Center
   - M. Computer store
   - N. Congregate housing
   - O. Dance studio, not including uses defined under "Adult Establishment"
   - P. Educational Institutes under the supervision and administration of a public agency
   - Q. Exercise, fitness and tanning spa, not including uses defined under "Adult Establishment"
   - R. Farm implement display or salesroom
   - S. Filling station and convenience stores
   - T. Floral shop
   - U. Food sales, limited
   - V. General Offices
   - W. Gift and curio shop
   - X. Golf driving ranges, miniature golf
   - Y. Hobby, craft, toy store
   - Z. Jewelry store
   - AA. Laundries and dry-cleaning establishments
   - BB. Laundry pick-up and delivery stations
   - CC. Liquor Store
   - DD. Locksmith
   - EE. Lumber Yard
   - FF. Medical Offices
   - GG. Meeting hall, not including uses defined under "Adult Establishment"
   - HH. Mortuaries, and funeral homes
   - II. Motels, hotels and trailer campgrounds, not including uses defined under "Adult Establishment"
   - JJ. Nightclubs and taverns, not including uses defined under "Adult Establishment"
   - KK. Photographer
   - LL. Picture framing shop
   - MM. Printing shop
   - NN. Private clubs and lodges, not including uses defined under "Adult Establishment"
   - OO. Professional offices
   - PP. Public overhead and underground local distribution utilities

QQ. Public Services
RR. Public utilities
SS. Restaurants, cafes and fast food establishment
TT. Retail motor vehicle sales and service, provided all inoperable or junk vehicles are kept in an enclosed area or in a building
UU. Second hand stores
VV. Self service laundries
WW. Social club and fraternal organizations, not including uses defined under "Adult Establishment"
XX. Tanning salon, not including uses defined under "Adult Establishment"
YY. Telephone answering service
ZZ. Telephone exchange
AAA. Theater (indoor), not including uses defined under "Adult Establishment"
BBB. Travel Agencies
CCC. Video store, not including uses defined under "Adult Establishment"

3. Residences shall be permitted in the Commercial District only as follows:
   A. Multifamily use provided that all required parking shall be as provided in Section 7.01 and shall be located on-site, and parking stalls located in the public right-of-way shall not be counted;
   B. Residences used in conjunction with the principal commercial uses provided that such residence complies with the following requirements:
      i. The residential use shall be located on the second or higher floor or the rear side of the commercial use on the ground floor.
      ii. All required Parking shall be provided at the rear of the building; and
      iii. The residential use shall have a separate entrance.
      (Ord #2006-02, 12/12/2006)

5.09.03 *Permitted Conditional Uses:*

1. Automobile or boat repair, provided all inoperable or junk vehicles are kept in an enclosed area or in a building.
2. Automobile display, sales, service, and repair
3. Brew Pubs
4. Campgrounds and Recreational Vehicle facilities
5. Car wash facility
6. Churches, temples, seminaries, and convents including residences for teachers and pastors
7. Coffee kiosks
8. Dance club, not including uses defined in "Adult Establishment"
9. Day care center
10. Department Stores
11. Dry cleaning establishments not over 2,000 sq. ft. in floor area, with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
12. Food sales, general
13. Frozen food locker
14. Garden supply and retail garden center
15. Living quarters used by watchmen or custodians of any commercially used property
16. Micro breweries when in conjunction with a restaurant
17. Milk distribution center
18. Outdoor advertising signs
19. Parking lots
20. Public and private higher educational institutions such as trade schools, colleges, and seminaries
21. Self-storage garages
22. Theater (outdoor)
23. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any Residential District boundary

5.09.04 *Permitted Temporary Uses:*

1. Temporary Uses require a permit from the Village of Wauneta and shall be valid only for a specific amount of time as indicated on said permit.
2. Temporary greenhouses.
3. Temporary structures as needed for sidewalk and other outdoor sales events.
4. Fireworks stands, provided the criteria is met as established by the City through separate Ordinances.
5. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
6. Temporary structures for festivals or commercial events.

5.09.05 *Permitted Accessory Uses:*

1. Buildings and uses customarily associated to the permitted uses.
2. Parking as permitted in Section 7.01 through 7.05
3. Signs allowed in Section 7.06 through 7.08
4. Landscaping as required by Section 7.15

5.09.06 *Fire Regulations:*

1. The fire regulations contained in the Commercial District shall apply to the following areas:
   A. Lots 7 through 26 of Block 1, Original Town
   B. Lots 1 through 8 of Block 2, Original Town
   C. The east half of Blocks 5&8, Original Town
   D. The west half of Blocks 7, Original Town
2. It shall be permissible for a building or structure to be erected or constructed that is covered in whole or in part with metal, provided that the exterior of the front elevation is covered in brick or stone materials in a manner approved by the Zoning Administrator.
3. It shall be unlawful to move into, within, or remove from the area noted above any building or structure that is covered in whole or in part with metal.
   A. Accessory buildings or structures shall be exempt if they are located to the rear of the lot and at least 20 feet from the primary structure.
   B. Accessory buildings or structures shall not be constructed without a permit from the Zoning Administrator.
4. Building or structure within the area designated above at the time of adoption of this ordinance
   A. Shall not have repairs of any kind made to them without authorization of the Zoning Administrator
   B. Shall not have roofs, foundations, or undersills repaired to the same extent as a similar item that is considered new in its construction
   C. If deemed unsanitary due to the structure or building being out of repair to the extent that a danger of fire is present shall also be deemed a nuisance
   D. Such building or structure shall be taken down or removed by order of the Village Board after 20 days notice has been given to the owner or their agent
   E. Such building or structure shall be taken down or removed by order of the Board of Health if a lack of sanitation is found after an inspection.
5. Building or structure within the area designated above shall have external walls constructed of non-combustible materials and contain a fire-proof roof approved by the Village.
6. Additions or alternations of building or structures that exceed one fourth of the present valuation of the original structure or building shall first be approved by the Village Board.
7. No building or structure containing combustible materials shall be moved into, or within the prescribed area unless:
   A. The location is temporary in nature, with a maximum time limit of four months
   B. The building or structure shall be removed at the end of its use.
   C. The move is approved by a ¾ vote of the Village Board, at which time a permit shall be issued
   D. The owner of the building or structure shall provide the Village with a surety bond sufficient to hold the Village harmless from any liabilities associated with the buildings removal.
8. Any alterations to any part of the public right-of-way above or underground shall be repaired to the same condition found before the alteration unless approved by the Village.

9. All uses of buildings, structures, lots, or right-of-way in the prescribed area that are a threat to the health, safety, and welfare of the Village shall first be approved by the Village Board, and shall be subject to any limitations, requirement, or restrictions established by the Board.
10. Buildings or structures that are damaged to the extent of 50% or more of its original value shall be demolished and removed within 30 days of damage. The Village Board may grant exceptions to the time requirement of this standard in an emergency situation.
11. Buildings or structures in the prescribed area that are not in conformance with these standards shall be deemed a nuisance and removed after 20 days written notice has been given by the owner.
12. Upon the issuance of any necessary permits by the Village, all plans and specifications shall be adhered to completely, with a failure to do so considered a violation of this ordinance. In the event changes to the plans or specification are necessary, a new permit must be secured from the Village unless changes are authorized by the Zoning Administrator.

5.09.07 *Height and Lot Requirements:*

1. The height and minimum lot requirements for the areas as described in (Fire Regulations) Section 5.09.06; 1; A, B, C and D

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	2,250	25′	-	-	-	40′	100%
Permitted Conditional Uses	2,250	25′	-	-	-	40′	100%
Accessory Uses	-	-	-	-	-	20′	10%

2. The height and minimum lot requirements for the remainder of Commercial shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	5,000	50′	35′	10′	25′	60′	50%
Permitted Conditional Uses	5,000	50′	35′	10′	25′	60′	50%
Accessory Uses	-	-	35′	10′	25′	40′	10%

5.09.08 *Use Limitations:*

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.13.04.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. All uses over 35,000 sq. ft. in a gross floor area shall be required to submit development plans as a Planned Unit Development unless otherwise specified.

Section 5.10 Reserved for Future Use
(Ord. #2021-01, 3/9/2021)

Section 5.11 I Industrial District
(Updated per Ord. #2021-01, 3/9/2021)

5.11.01 *Intent:* It is the intent of the Industrial District Regulations to provide standards for area suitable for some limited 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 the Wauneta Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

5.11.02 *Permitted Uses:*

1. Airports
2. Ancillary parking
3. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials
4. Bottling Works
5. Building materials yards with enclosed and screened storage areas
6. Commercial recreation facilities, indoor and outdoor
7. Construction and contractor storage yards, sales, and repair
8. Construction batch plants that are temporary in nature
9. Dairy products processing
10. Dance studios, not including those classified as an “Adult Establishment”
11. Dry cleaning services
12. Equipment rental, sales, and repair
13. General and Medical offices
14. Health clubs and tanning salons, not including those classified as an “Adult Establishment”
15. Highway maintenance yards and buildings
16. Ice Plant
17. Laboratories
18. Manufacture and assembly of wholesale and retail materials
19. Millwork, woodwork
20. Outdoor storage facilities
21. Parks and recreation
22. Personal improvement services
23. Pet health services
24. Printing and publishing business
25. Processing of food products
26. Public local distribution and main transmission utilities
27. Public services
28. Railroads
29. Recycling collection and processing facilities, both public and private
30. Self-storage units
31. Stone and monument works
32. Storage and sales of farm and agricultural products
33. Vehicle storage, short and long term
34. Veterinarian or animal hospitals
35. Tire retreading and recapping
36. Truck and transportation terminals
37. Warehouses and wholesale businesses

5.11.03 *Permitted Conditional Uses:*

1. Fertilizer transmission lines
2. Utility substations, terminal facilities, and reservoirs
3. Radio, television and communication towers and transmitters, as per Section 7.10
4. Auction Sales
5. Construction and heavy equipment sales and service
6. Farm implement sales and service
7. Research facilities
8. Truck terminal and dock facilities to include truck washing
9. Auto body repair
10. Auto Salvage
11. Central mixing plant for concrete, asphalt, or paving material
12. Scrap and salvage yard
13. Storage of bulk petroleum products
14. Storage or processing of non-hazardous material
15. Restaurant
16. Cabinetry millwork
17. Correctional Facilities
18. Day care and day care centers
19. Adult Entertainment establishments.
    A. No Adult business shall be closer than 500 feet to any similar use and no closer than 500 feet to a residential district / use, religious uses, educational uses and recreational uses. 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 point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational uses.
    B. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
    C. Doors, curtains and any other means of obstruction to the opening of all booths and 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 one a.m. and six a.m.
    E. The proposed location, design, construction and operation of the particular use adequately safeguards 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 danger of fire and safety,
    H. Any explicit signs shall not be seen from any point off-premises,
    I. Such use shall not diminish or impair established property values in adjoining or surrounding property,
    J. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Wauneta, Nebraska,
    K. 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 and shall include a site plan defining the areas to be developed for buildings and structure, 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.

L. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (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 from coming on the premises.

M. Prohibited Activities of Adult Businesses

1. No adult business shall employ any person under eighteen (18) years of age.
2. No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
3. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas of 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.
4. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.11.04 *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Section 7.01 through 7.05.
3. Signs allowed in Section 7.06 through 7.08.
4. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.
5. Live-in quarters used by live-in watchman or custodians during periods of construction.
6. Landscaping as required by Section 7.15.

5.11.05 *Height and Lot Requirements*:

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

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	5,000	50’	50’(1)	50’	10’	-	80%
Permitted Conditional Uses	5,000	50’	50’(1)	50’	10’	-	80%
Accessory Uses	-	-	25’	10’	10’	17’	10%

(1) 50’ front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of seventy-five (75) feet.

5.11.06 *Use Limitations:*

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.13.04.
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.

5.11.07 *Performance Standards:*

See Section 7.12 of the Supplemental Regulations

Section 5.12 Reserved for Future Use
(Ord. #2021-01, 3/9/2021)

Section 5.13 MH Mobile Home Residential District

5.13.01 *Intent:*

The intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home court is appropriate, where such development is recognized as being in the best interests of the citizens and taxpayers of Wauneta.

5.13.02 *Permitted Principal Uses:*

The following uses are permitted in the ~~R-M~~ MH Mobile Home Residential District:

1. Mobile or Manufactured Home dwelling.
2. Public School.
3. Private and public park, playground and recreational facilities
4. Church, educational facilities and parish house.
5. On-site sign.
6. Recreational Vehicle Facilities (Ord. #2019-05, 12/10/2019)

5.13.03 *Permitted Conditional Uses:*

1. Home occupation, pursuant to Section 7.09.
2. Nursery or day-care schools.
3. Utility installations such as electric substations, sewer lift-stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
4. Public buildings.
5. Accessory Buildings that do not comply with Section 4.12.06 of this Zoning Ordinance. (Ord. #2011-05, 8/9/2011)

5.13.04 A*ccessory Uses:*

1. Buildings and uses that are customarily incidental to the permitted uses and comply with Section 4.12 of this Zoning Ordinance. (Ord. #2011-05, 8/9/2011)
2. Fences as provided for in Section 7.11.
3. Parking pursuant to Sections 7.01 through 7.05.
4. Signs pursuant to Sections 7.06 through 7.08.
5. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.

5.13.05 *Area and Lot Requirements:*

A mobile or manufactured home shall be located within a mobile home park, provided such park conforms to the following requirements:

1. A mobile home park shall have an area of not less than three (3) acres. No mobile homes or other structures shall be located less than eighty-three feet (83') from the road centerline when contiguous to or having frontage to a County road or local street. The setback on all other mobile home park property lines shall be twenty-five feet (25'). These areas shall be landscaped. The minimum lot width for a mobile home park shall be two hundred feet (200').
2. Any person making application for a mobile home park shall comply with the permit requirements of the Wauneta Code of Ordinances §10-202. Such permit shall be subject to revocation pursuant to Wauneta Code of Ordinances §10-207.
3. Each lot provided for occupancy of a single mobile home shall have an area of not less than five thousand (5,000) square feet, excluding road R.O.W., and a width of not less than fifty feet (50') for an interior lot, eighty feet (80') for a corner lot, or forty-five feet (45') when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:
4. Side yards shall not be less than ten feet (10') on one side and not less than eight feet (8') on the other side, except that on corner lots, the setback for all buildings shall be a minimum of thirty feet (30') on the side abutting a street/road.
5. Front yard of not less than thirty feet (30').
6. A rear yard of not less than twenty-five feet (25').
7. There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home.
8. Height of Buildings.

9. Maximum height for principal uses: thirty-five feet (35').
10. Maximum height for accessory uses: twenty feet (20').
11. Each mobile home lot shall have access to a hard surfaced drive not less than twenty feet (20') in width excluding parking.
12. Water and sewer services shall be provided in a manner prescribed by the Village Board.
13. Service buildings, if deemed necessary, shall be provided in a manner prescribed by the Village Board.
14. Storm shelters, if required by the Village Board, shall meet the following criteria:
    A) Shelter space equivalent to two (2) persons per mobile home lot,
    B) Designed in conformance with "National Performance Criteria for Tornado Shelters" by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
    C) Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
15. All mobile homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the mobile home.

5.13.06 *Plan Requirements:*

A complete plan of the mobile home court shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.
9. Location and number of storm shelters proposed for the development.
10. Specifications, drawings and design calculations for all storm shelters on the park.

Section 5.14 PUD Planned Unit Development District

(Village Board approved to eliminate section 5.14, Planned Unit Development, from the Wauneta Zoning Ordinance, April 10, 2007)

Section 5.15 Wauneta Lot and Area Requirements

(Updated per Ord. #2021-01, 3/9/2021 and Ord. #2023-04, 12/12/2023)

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
TA Transitional Agriculture							
Farm	20 acres	250′	30′	25′	35′	45′	-
Storage Barns Associated with a Farm	-	-	100′	25′	10′	-	-
Acreage	3 acres	200′	35′	25′	35′	25′	-
Single-Family	3 acres	200′	35′	25′	35′	35′	-
Other Permitted Uses	10 acres	250′	30′	25′	35′	45′	-
Other Permitted Conditional Uses	10 acres	250′	30′	25′	35′	45′	-
Accessory Uses	-	-	100′	25′	10′	17′	-
Ethanol or Renewable Fuel Production Facility	100 acres	N/A	50′ Except where closer proximity is necessary for rail service	25′	25′	N/A	N/A
RE Rural Estates							
Residential Dwelling	1-3 acres	-	90′	50′	25′	-	-
Other Permitted Uses	1-3 acres	-	90′	50′	25′	-	-
Permitted Conditional Uses	1-3 acres	-	90′	50′	25′	-	-
Accessory Uses	-	-	90′	50′	10′	-	-
R Residential							
Single Family Dwelling	6,500 sq. ft.	50′	20′	-	20′	45′	45%
Two Family Dwelling	7,500 sq. ft.	50′	20′	-	20′	45′	45%
Multiple Family Dwellings	7,500 sq. ft.	50′	20′	-	20′	45′	45%
Other Permitted and Conditional Uses	7,500 sq. ft.	50′	20′	-	20′	45′	30%
Accessory Buildings	-	-	-	5′	5′	17′	10%
Private Non-Commercial Storage Buildings	-	-	20′	5′	5′	25′	40%
C Commercial (Fire Regulations)							
Permitted Uses	2,250 sq. ft.	25′	-	-	-	40′	100%
Permitted Conditional Uses	2,250 sq. ft.	25′	-	-	-	40′	100%
Accessory Uses	-	-	-	-	-	20′	10%
C Commercial (Remainder)							
Permitted Uses	5,000 sq. ft	50′	35′	10′	25′	60′	50%
Permitted Conditional Uses	5,000 sq. ft.	50′	35′	10′	25′	60′	50%
Accessory Uses	-	-	35′	10′	25′	40′	10%
I Industrial							
Permitted Uses	5,000 sq. ft.	50′	50′	50′	10′	-	80%
Permitted Conditional Uses	5,000 sq. ft.	50′	50′	50′	10′	-	80%
Accessory Uses	-	-	25′	10′	10′	17′	10%

Please refer to the specific district regulations contained herein for further information.

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions

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

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

Section 6.02 Application for Conditional Use 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 Village upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 Public Hearing

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

Section 6.04 Decisions

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

Section 6.05 Standards

No conditional use permit shall be granted unless the Planning Commission or Village Board has found:

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

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

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

6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

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

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

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

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

6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.

6.05.10 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.

6.05.11 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.

6.05.12 The use, if discontinued or abandoned for a period of twelve (12) or more months, shall no longer be valid unless a new conditional use permit is applied for and approved by the Village Board

6.05.13 In order to grant a conditional use permit for any Accessory Building which is located in a zoning district which includes residential use as a permitted use and is not otherwise in compliance with Section 4.12.06 of this Zoning Ordinance, the Village Board must find that the Accessory Building shall be compatible with and not detrimental to the general character, design and aesthetics of the neighborhood and/or the community. (Ord #2011-05, 8/9/2011)

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 Off-Street & On-Street Automobile Storage and Parking

7.01.01 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, the ratio of two hundred (200) square feet per parking space shall be used. Standing areas, aisles, areas for maneuvering, entrances, and exits shall not be computed as parking space and shall be provided as necessary.

7.01.02 All parking spaces for single-family, two-family, and multi-family dwellings, rooming and boarding houses, convalescent homes, and mobile homes shall be paved with asphalt or concrete.

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

7.01.04 In Districts RE, ~~R1~~ LDR, and ~~R2~~ MHDR, required off-street parking for residential use shall be provided on the lot on which is located the use to which the parking pertains. In all other Districts, if vehicle storage space or standing space required in section 7.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies within five hundred feet (500') of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

7.01.05 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. Lots utilized in this manner shall be within 500 feet of the lot that occupies the use.

7.01.06 Some uses may require two different use types to be calculated together in order to determine the total parking requirement, i.e. primary schools may require one a calculation for classrooms and another for assembly areas.

7.01.07 For off-street parking requirements in the C-1 ~~General~~ Downtown Commercial District, all on-street parking stalls within three-hundred feet (300') of the entrance to such use shall be counted as part of the required number of stalls.

7.01.08 All off street storage for vehicles shall only be utilized for vehicles that are currently licensed for operation by the State of Nebraska, unless screened, with solid common fencing material not less than six feet in height, from public view from adjacent properties, streets, or highways; and shall only be located in the rear or side yard of the principal structure. When the side yard is utilized for this purpose, storage areas shall be contained to the rear of the principal structure.

7.01.09 Lighting used to illuminate off-street parking shall be directed away from residential areas.

7.01.10 Mobile homes and/or recreational vehicles shall not be stored in any required front or side yard unless approved by the Village Board.

7.01.11 No on-street parking shall be permitted on First Street due to the right of way width, except on the west side of First Street between Wichita and Vinta.

7.01.12 On-street parking shall be in conformance with all other ordinances approved by the Village Board.

7.01.13 Standing, idling, storage, or parking of semi tractors or tractor trailers, except for loading or unloading shall not be permitted in the LDR or MDHR districts.

7.01.14 No on-street parking shall be permitted on Bronco Drive from the north edge of Vinita Street a distance of one hundred fifty feet (150') north to alley. (Ord #2018-03, 11/13/2018)

7.01.15 No on-street parking shall be permitted on any public street, alley or public right-of-way of a motor vehicle or trailer past the maximum time limit of 48 consecutive hours, except where a different maximum time limit is posted. (Ord. #2021-01, 3/9/2021)

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

Uses	Parking Requirements	Loading Requirements
Adult entertainment establishments	One (1) space per 2 persons of licensed capacity	None required
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches, Synagogues, and Temples	One (1) space per 6 seats in main worship area	None required
Clubs, including fraternal organizations	One (1) space per 500 s.f. of gross floor area	None required
College/University	One (1) space per five students per classroom plus 1 space per administrative office and/or classroom	Two (2) spaces per structure
Commercial Uses		
Agricultural Sales / Service	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Automotive Rental / Sales	One (1) space per two (2) employees (maximum shift) plus two (2) spaces per 300 s.f. of gross floor area	One (1) per establishment
Automotive Servicing	One (1) space per two (2) employees (maximum shift) plus two (2) spaces per 300 s.f. of gross floor area	None required
Bars, Taverns, Nightclubs	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Body Repair	Four (4) spaces per repair stall	None required
Equipment Rental / Sales	One (1) space per 500 s.f. of gross floor area	One (1) Space
Campground	One (1) space per camping unit	None required
Commercial Recreation	One (1) space per 4 persons of licensed capacity	One (1) per establishment
Communication Services	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Construction Sales / Service	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Food Sales (limited)	One (1) space per 300 s.f. of gross floor area	One (1) per establishment
Food Sales (general)	One (1) space per 200 s.f. of gross floor area	Two (2) per establishment
General Retail Sales establishments	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Laundry Services	One (1) space per 200 s.f. of gross floor area	None required
Restaurants w/ drive-thru	Greater of the two: One (1) space per 40 s.f. of dining area, or One (1) space per 150 s.f. of gross floor area	One (1) per establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Convalescent and Nursing Home Services	One (1) space per 3 beds plus 1 per employee on the largest shift	Two (2) space per structure
Day Care	One (1) space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
Educational Uses, Primary facilities	One (1) space per classroom or administrative office	Two (2) spaces per structure
Educational Uses, Secondary facilities	One (1) space per classroom or administrative office	Two (2) spaces per structure
Funeral Homes and Chapels	One (1) space per Six (6) spaces in chapel/assembly area	Two (2) spaces per establishment
Group Care Facility	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Group Home	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Guidance Services	One (1) space per 300 s.f. of gross floor area	None required
Hospitals	One (1) space per 2 licensed beds	Three (3) spaces per structure
Hotels and Motels	One (1) space per rental unit, plus 2 spaces for employees	One (1) space per establishment
Housing (Congregate)		
Assisted-living facilities	One (1) space per dwelling unit plus 1 space per employee on the largest shift	One (1) per structure
Duplex	Two (2) spaces per dwelling unit	None required
Multi-family / Apartments	One (1) space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Industrial Uses	.75 times the maximum number of employees during the largest shift	Two (2) spaces per establishment
Libraries	One (1) space per 500 s.f. of gross floor area	One (1) per structure
Boarding Houses / Bed and Breakfasts	One (1) space per rental units	None required
Medical Clinics	Five (5) spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	Two (2) per dwelling unit	None required
Offices and Office Buildings	One (1) space per 200 s.f. of gross floor area	None required
Residential (Single-family, attached and detached)	One (1) space per dwelling unit with 1 required to be enclosed	None required
Roadside stands	Four (4) spaces per establishment	None required
Service Oriented Establishments	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Theaters, Auditoriums, and Places of Assembly	One (1) space per 5 persons of licensed capacity	One (1) space per establishment
Veterinary Establishments	Three (3) spaces per staff doctor	None required
Wholesaling / Distribution Operations	One (1) space per 2 employees on the largest shift	Two (2) spaces per establishment

Section 7.03 Off-Street Parking: Shared Parking Requirements

7.03.01 Not withstanding the provisions of Section 7.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may by decreased by the Planning and Zoning Board and Village Board.

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

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

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

7.04.02 Except as provided to Section 7.04.01.01 of this Ordinance, access aisles adjacent to accessible spaces shall be sixty inches (60") wide at a minimum.

7.04.02.01 One in every eight accessible spaces, but not less than one, shall be served by an access aisle ninety-six inches (96") wide minimum and shall be designated "van accessible" as required by Section 7.04.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.

7.04.02.02 Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.

7.04.02.03 Parked vehicle overhangs shall not reduce the clear width of an accessible route.

7.04.02.04 Parking spaces and access aisles shall be level with slopes not exceeding two percent (2%) in all directions.

7.04.02.05 If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.

7.04.02.06 At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:

1. Outpatient units and facilities: Ten percent (10%) of the total number of parking spaces provided serving each such outpatient unit or facility;
2. Units and facilities that specialize in treatment or services for persons with mobility impairments: Twenty percent (20%) of the total number of parking spaces provided serving each such unit or facility.

7.04.02.07 Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.04.06 of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.04.01, 7.04.02.01, and 7.04.02.03 of this Ordinance do not apply to valet parking.

7.04.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

7.04.03.01 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.

7.04.03.02 In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.

7.04.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 7.04.02.01 shall have an additional sign stating the stall is "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

7.04.05 Minimum vertical clearance of one-hundred fourteen inches (114") at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02.01, provide minimum vertical clearance of ninety-eight inches (98") at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

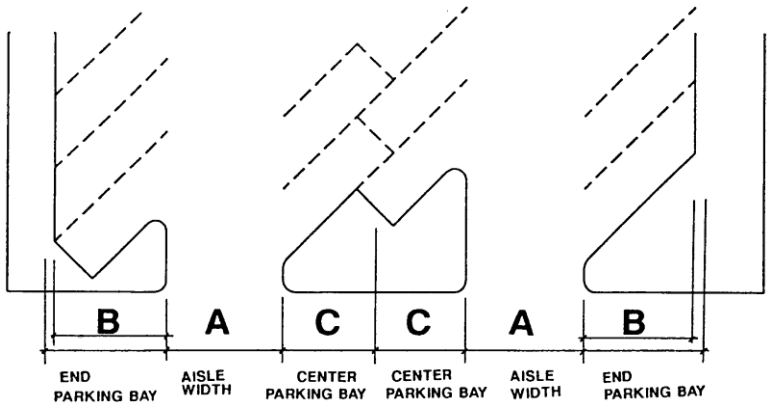
7.04.06 Passenger Loading Zones shall provide an access aisle at least sixty inches (60") wide and two-hundred forty inches (240") long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent (2%) in all directions.

Section 7.05 Off-Street Parking Design Criteria

7.05.01 Standard parking stall dimensions shall not be less than nine feet (9') by eighteen feet (18'), plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet (5') in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet (2'). Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration

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



7.05.02 Minimum dimensions for a parallel parking space shall be nine feet (9') by twenty-three feet (23').

7.05.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning and Zoning Board and Village Board upon recommendation of the Village Engineer

Section 7.06 Sign Area Computation

7.06.01 *Computation of Area of Individual Signs*

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

7.06.02 *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 forty-two inches (42") apart, the sign area shall be computed by the measurement of one of the faces.

7.06.03 *Computation of Height*

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

Section 7.07 Sign Schedules

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

Zoning District	TA	RE	LDR	MHDR	C-1	C-2	I-1	I-2	PUD	FP
Sign Type										
Real Estate	+	+	+	+	+	+	+	+	+	+
Announcement	+	+	+	+	+	+	+	+	C	+
Wall	+	-	-	-	+	+	+	+	C	-
Name Plate	C	+	+	+	+	+	+	+	+	+
Billboard	-	-	-	-	-	-	C	C	-	-
Ground	C	C	C	C	+	+	+	+	C	-
Pole	-	-	-	-	C	C	C	C	C	-

+: permitted -: not permitted C: Conditional Use

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

Zoning District	TA	RE	LDR	MHDR	C-1	C-2	I-1	I-2	PUD	FP
Sign Type										
Real Estate										
Max. Square Ft.	32	6	6	6	32	32	32	32	6	6
Max. Height Ft.	4	-	-	-	4	4	4	4	4	4
Max. Number	2	1	1	1	1	1	1	1	1	1
Announcement										
Max. Square Ft.	32	6	6	6	32	32	32	32	6	-
Max. Height Ft.	4	4	4	4	4	4	4	4	4	-
Max. Number	1	1	1	1	1	1	1	1	1	
Wall										
Max. Square Ft.	200[1]	-	-	-	200[1]	200[1]	200'	200[1]	400[1]	400[1]
Max. Height Ft.	15	-	-	-	45	45	45	45	45	45
Max. Number	1	-	-	-	1	1	1	1	1	1
Name Plate										
Max. Square Ft.	2	2	2	2	2	2	2	2	2	2
Max. Height	-	-	-	-	-	-	-	-	-	-
Max. Number	1	1	1	1	1	1	1	1	1	1
Billboard										
Max. Square Ft.	-	-	-	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-	-	-
Ground										
Max. Square Ft.	50	-	-	-	32[2]	32[2]	50[3]	50[3]	32[2]	-
Max. Height Ft.	10	-	-	-	10	10	10	10	10	-
Max. Number	1	-	-	-	1	1	1	1	1	-
Pole										
Max. Square Ft.	-	-	-	-	100[4]	100[4]	200[5]	200[5]	100[4]	-
Max. Height Ft.	-	-	-	-	40	40	40	40	40	-
Max. Number	-	-	-	-	1	1	1	1	1	

[1] Wall signs shall not exceed ten percent (10%) of the total wall area or the number indicated, whichever is greater.

[2] Ground signs may be increased from thirty-two (32) square feet in area to fifty (50) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
[3] Ground signs may be increased from fifty (50) square feet in area to seventy-five (75) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
[4] Pole signs may be increased from one-hundred (100) square feet in area to one-hundred fifty (150) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
[5] Pole signs may be increased from two-hundred (200) square feet in area to three-hundred (300) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.

7.07.03 A building or use having frontage on a second street may install a sign on the second street side no greater in size than twenty percent (20%) of the total allowed on one facade.

Section 7.08 Signs, Special Conditions

7.08.01 *Real Estate Signs.* Not more than two (2) signs per lot may be used as a temporary sign. Signs in the TA District shall be set back twenty feet (20') from the road right-of-way or road easement.

7.08.02 *Billboard Signs.* 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 be subject to the following conditions and restrictions.

7.08.02.01 No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.

7.08.02.02 No billboard, signboard, or similar advertising signs shall be located within fifty feet (50') of any lot in a residential district.

7.08.02.03 No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

7.08.03 Signs hung from canopies and awnings shall maintain eighty inches (80") of clear space, as measured from the bottom edge of the sign to the grade below.

Section 7.09 Home Occupations

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

7.09.01 One unlit nameplate of not more than two (2) square feet in area attached flat against a building located on local or collector streets. However, signs may be four (4) square feet in area if attached flat against a building located on arterial streets.

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

7.09.03 No more than fifty percent (50%) of the home can be used for the home occupation,

7.09.04 No more than one (1) employee or co-worker other than the resident(s) can work from the site,

7.09.05 No retail sales are permitted from the site other than incidental sales related to services provided,

7.09.06 No exterior storage (excluding storage within detached buildings/garages) is permitted,

7.09.07 Additional off-street parking may be required for the business,

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

7.09.09 All businesses related to Child Care Homes and Child Care Centers shall be licensed in accordance with proper state statutes.

Section 7.10 Wireless Communication Towers

7.10.01 *Intent:*

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

7.10.02 *Definitions:*

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

7.10.02.01 ***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.

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

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

7.10.02.04 ***APPLICATION*** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the Village 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 Village concerning such request.

7.10.02.05 ***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.

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

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

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

7.10.02.09 ***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.

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

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

1. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned C1, C2, or I.
2. Any satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.

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

7.10.02.13 ***TOWER DEVELOPMENT PERMIT*** shall mean a permit issued by the Village upon approval by the Village Board of an application to develop a tower within the zoning jurisdiction of the Village; 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.

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

7.10.03 *Location of Towers and Construction Standards:*

7.10.03.01 Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.

7.10.03.02 No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Tower Development Permit by the Village Board and issuance of the permit by the Village. Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay a filing fee in accordance with Section 4.21.

7.10.03.03 All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the Village after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the Village, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineers certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Office.

7.10.04 *Application to develop a Tower:*

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

7.10.04.01 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.

7.10.04.02 The legal description and address of the tract of land on which the tower is to be located.

7.10.04.03 The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.

7.10.04.04 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.

7.10.04.05 Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the Village Board and federal and state and ANSI standards.

7.10.04.06 Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.

7.10.04.07 Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

7.10.04.08 A performance bond in the amount of $50,000 for the removal and disposal of the tower.

7.10.05 *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 Village Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the Village Board, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the Village Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (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 regulation. The Planning Commission and Village

Board may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

7.10.06 *Setbacks and Separation or Buffer Requirements:*

7.10.06.01 All towers up to fifty feet (50') 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 fifty feet (50') in height shall be set back an additional one foot (1') for each one foot (1') of tower height in excess of fifty feet (50'). 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.

7.10.06.02 Towers exceeding one hundred feet (100') 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 two hundred feet (200') or one hundred percent (100%) of the height of the proposed tower, whichever is greater.

7.10.06.03 Towers of one hundred feet (100') 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 one hundred percent (100%) of the height of the tower.

7.10.06.04 Towers must meet the following minimum separation requirements from other towers:

1. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven hundred fifty feet (750').
2. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred feet (1,500').

7.10.07 *Structural Standards for Towers Adopted:*

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

7.10.08 *Illumination and Security Fences:*

7.10.08.01 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 three-hundred percent (300%) of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.

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

7.10.09 *Exterior Finish:*

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

7.10.10 *Landscaping:*

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

7.10.11 *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 Village Board, an exemption from compliance as a condition of the Tower Development Permit.

7.10.12 *Inspections:*
The Village 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 Village's Building Codes and any other construction standards set forth by the Village, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the Village's Zoning Office, Building Inspector, or a duly appointed independent representative of the Village.

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

7.10.14 *Abandonment:*
If any tower shall cease to be used for a period of one (1) year, the Zoning 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 thirty (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 seventy-five (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 and a written request shall be directed to the Village Attorney to proceed to abate said public nuisance pursuant to authority set forth in state statutes and the Village of Wauneta Municipal Code, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

7.10.15 *Satellite Dish Antennas, Regulation:*
Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Wauneta only upon compliance with the following criteria:

7.10.15.01 In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten feet (10').

7.10.15.02 Single family residences may not have more than one (1) satellite dish antenna over three feet (3') in diameter.

7.10.15.03 Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three feet (3') in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three feet (3') in diameter.

7.10.15.04 In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.

7.10.15.05 All satellite dish antennas installed within the zoning jurisdiction of Wauneta, 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.

7.10.16 *Severability*
If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

Section 7.11 Fences

No fence shall be constructed within the zoning jurisdiction of the Village of Wauneta unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements:

7.11.01 The height limitation for fences shall be six feet (6') above ground level except as provided herein.

7.11.01.01 A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed forty-eight inches (48") in height. Fencing or vegetation shall located at least eight feet from the back of the nearest curb.

7.11.01.02 Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet (6') in height may be approved by through a Conditional Use Permit.

7.11.01.03 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 (8') in height.

7.11.01.04 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 (8') in height.

7.11.02 Fences located within a front or side yard of a residential lot 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. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.

7.11.04 No fence shall be located any closer than three feet (3') of the rear property line if a street or alley is present.

7.11.05 Any fence located on a corner lot adjacent to intersections without traffic controls present shall be opaque or see through in nature.

7.11.06 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.

7.11.04 The use of barbed wire in the construction of any fence is prohibited except:

7.11.04.01 Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the Village before commencement of construction.

7.11.04.02 Farm fencing constructed for agricultural purposes on parcels of land ten (10) acres or more in size, located in the Transitional Agricultural District.

7.11.05 All fences shall be maintained in good repair.

7.11.06 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the Village agree to build one (1) fence on the common lot line of adjacent side yards or back yards.

7.11.07 *Electric Fences.* No electric fence, except for underground animal control fencing, shall be constructed or maintained within the Village of Wauneta or within its extraterritorial zoning jurisdiction except in TA-Transitional Agriculture District as hereinafter provided. An owner or lessee of such property may, upon application to the Village and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Building Inspector shall approve any electrified fencing, it shall be determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

7.11.08 *Facing.* The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) 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.

7.11.09 *Fences in existence as of the date of adoption of this Ordinance.* Any existing fence which was in conformity with past Municipal Code provisions and which was in place as of the date of adoption of this Ordinance, may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, any replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

Section 7.12 Performance Standards for Industrial Uses

7.12.01 *Physical Appearance:* All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

7.12.02 *Fire hazard:* No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the Village of Wauneta.

7.12.03 *Noise:* No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

7.12.04 *Sewage and Liquid Wastes:* No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

7.12.05 *Air Contaminants:*

7.12.05.01 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.

7.12.05.02 Particulate mater 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.

7.12.05.03 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.

7.12.05.04 **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.

7.12.05.05 **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be taken at the zoning lot line.

7.12.05.06 **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 thousands of an inch (0.003") measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.

7.12.05.07 **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 5 degrees Fahrenheit.

Section 7.13 Screening

7.13.01 *Intent:*

The intent of the screening requirements are to improve the appearance of lot areas; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; and to conserve the value of property and neighborhoods within the community. Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

7.13.02 *Screening Requirements:*

7.13.02.01 All commercial and industrial uses that abut residential or office districts shall provide screening not less than six feet (6') in height along the abutting property line(s).

7.13.02.02 Screening required by this section shall be equivalent to the following:

1. Solid fences or walls as approved by the Planning Commission on the final development plan.
2. Hedges, shrubs, or evergreen trees of thirty-six inches (36") in height at planting spaced appropriately to provide a solid screen within 3 years after planting.

3. Berms of not less than three feet (3') in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in Section 7.14.02.03 (1) above.
4. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid six feet (6') tall enclosure around each unit. Said enclosure shall be constructed of materials complimentary and suitable to the primary use.

7.13.03 *Installation and Maintenance of Screening:*

7.13.03.01 *Installation:* All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. A qualified code enforcement officer or other planning official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Deputy Building Official.

7.13.03.02 *Maintenance*: The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement.

7.13.03.03 All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

7.13.04 *Parking Lot Plan Approval:*

A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

7.13.04.01 New construction.

7.13.04.02 Expansion of existing facilities.

7.13.04.03 Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.

7.13.04.04 No parking lot shall be exempted from these regulations; unless previously exempted.

Section 7.14 Wind Energy Systems

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

7.14.01 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances, figured according to the size of the largest rotor.

7.14.02 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.

7.14.03 To limit climbing access to the tower, a fence six feet (6') high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve feet (12') from the ground, or the tower may be mounted on a roof top.

7.14.04 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

7.14.05 SETBACK TABLE

Rotor Diameter	Setback Distance	Minimum Lot Area[1]
5 feet	100 feet	1.0 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres

35 feet	365 feet	12.25 Acres

1 Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.

7.14.06 Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.[1]

7.14.07 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

Section 7.15 Landscaping Requirements

7.15.01 ***Intent:*** The intent of the landscaping requirements are to improve the appearance of lot areas; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the Village of Wauneta by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with then provisions of this section. Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

7.15.02 ***Screening Requirements:***

1. All screening shall be located at least 8 feet from the back of the nearest curb. Exceptions for this will be made where screening is located a minimum of 4 feet from the edge of the sidewalk.
2. All parking areas or vehicular use areas abutting a residential district or public right-of way shall be screened from grade level to a height not less than three feet (3').
3. All commercial and industrial uses that abut residential districts shall provide screening not less than six feet (6') in height along the abutting property line(s).
4. Screening required by this section shall be equivalent to the following:
   a). Solid fences or walls as approved by the Planning and Zoning Board on the final development plan.
   b). Hedges, shrubs, or evergreen trees of three feet (3') in height at planting spaced appropriately to provide a solid screen within three (3) years after planting.
   c). Berms of not less than three feet (3') in height and that provide a maximum slope of three to one (3:1) for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.14.02(2).
   d). All commercial or industrial dumpsters or trash bins, unless moved for regular disposal service, shall be placed to the side or rear of the lot. When not located to the rear or side of the lot, they shall maintain a solid six feet (6') tall enclosure around each unit. Said enclosure shall be constructed of materials that compliment or conform to those used on the primary structure.
   e). All projects shall include a detailed drawing indicating the method of enclosure and screening to be used.

7.15.03 ***Installation and Maintenance of Landscaping and Screening:***

1. ***Installation:*** All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment.
2. ***Maintenance:*** The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary, all new plants and other non-living landscape materials shall conform to the requirements of this section. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

7.15.04 ***Preliminary Plan Approval:*** A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat or preliminary site plan for development, for review and recommendation by the Planning and Zoning Board and approval by the Village Board. Said Plan shall be in sufficient detail to provide the and

[1] U.S. Department of Energy – EPRI Wind Turbine Verification Program
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304

Zoning Board and Village Board with a reasonable understanding of what is being proposed. Site calculations used in computing quantities to satisfy the required amounts of landscaping shall also be submitted.

7.14.05 ***Final Plan Approval**:* A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning and Zoning Board on separate sheets for review and recommendation and approval by the Village Board along with a planting schedule at final development plan submission.

7.15.06 ***Parking Lot Plan Approval**:* A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

1. New construction.
2. Expansion of existing facilities.
3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. The Planning Commission may grant modifications to the required parking lot landscaping and screening after review of submitted plans and in consideration of surrounding uses.
4. No parking lot shall be exempted from these regulations unless previously exempted.

ARTICLE 8: FLOOD PLAIN REGULATIONS

Section 8.1 Statutory Authorization, Findings of Fact, and Purposes

8.01.01 *Statutory Authorization*

The Legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare.

8.02.01 *Findings of Fact*

1. Flood Losses Resulting from Periodic Inundation

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

2. General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

8.02.01 *Statement of Purpose*

It is the purpose of this ordinance/resolution to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by applying the provisions of this ordinance/resolution to:

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

Section 8.2 Zoning Administrator Responsibilities

The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and all other Ordinances of the Village now in force or hereafter adopted, related to zoning, subdivision or building codes.

Section 8.3 Zoning Administrator Additional Responsibilities

The Zoning Administrator shall be appointed to these additional responsibilities by resolution of the Governing Body and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Zoning Administrator, the Governing Body shall designate an acting administrator.

Section 8.4 Designation of Current FHBM/FIRM

The Governing Body of the Village hereby designates the Flood Hazard Boundary Map/Flood Insurance Rate Map deemed the most recent according to the Federal Emergency Management Agency, and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.

Section 8.5 Permits Required

Permits Required: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this ordinance/resolution.

A. Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

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

(1) Identify and describe the development to be covered by the floodplain development permit for which application is made.

(2) Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.

(3) Indicate the use or occupancy for which the proposed development is intended.

(4) Be accompanied by plans and specifications for proposed construction.

(5) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

(6) Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be

floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator

(7) Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

Section 8.6 Development Permit Applications Review

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law.

Section 8.7 All Applications Review

The Zoning Administrator in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 21 of this Ordinance) will:

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

(1) <u>That until a floodway has been designated</u> - No development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one (1) foot at any location.

(2) <u>Residential Construction</u> - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.

(3) <u>Non-residential Construction</u> - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the zoning administrator.

(4) <u>Require for all new construction and substantial improvements</u> - That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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

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

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

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

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

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

(2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds.

(4) Any additions to manufactured homes be similarly anchored.

G. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:

(1) Outside of a manufactured home park or subdivision;
(2) In a new manufactured home park or subdivision;
(3) In an expansion to an existing manufactured home park or subdivision; or
(4) In an existing manufactured home park or subdivision on which a manufactured home has incurred *"substantial damage"* as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.F.

H. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of Section 7.G. be elevated so that either:
(1) The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.F.

I. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section 8.8 Subdivision Application

The Governing Body of the Village shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

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

Section 8.9 Water & Sewage Systems

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

Section 8.10 Storage of Material and Equipment

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

Section 8.11 Flood-Carrying Capacity within any Watercourse

The Governing Body of the Village will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The Village will notify, in riverine situations, adjacent communities, communities they may feel will be impacted, and the State Coordinating Office (Nebraska Natural Resources Commission) prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the Village will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

Section 8.12 Variance Procedures

8.12.01 The Board of Zoning Adjustment as established by the Village shall hear and decide appeals and requests for variances from the requirements of this ordinance/resolution.

8.12.02 The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance/resolution.

8.12.03 Any person aggrieved by the decision of the Board of Zoning Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.

8.12.04 In passing upon such applications, the Board of Zoning Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance/resolution, and;

1. the danger that materials may be swept onto other lands to the injury of others;
2. the danger to life and property due to flooding or erosion damage;

3. the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity to the facility of a waterfront location, where applicable;
6. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. the compatibility of the proposed use with existing and anticipated development;
8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. the safety of access to the property in times of flood for ordinary and emergency vehicles.
10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
11. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

8.12.05 Conditions for Variances

1. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (12.52-12.55 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances/ resolutions.
5. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance/resolution.

Section 8.13 Non-Conforming Use

8.13.01 A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance/ resolution, but which is not in conformity with the provisions of this ordinance/ resolution may be continued subject to the following conditions:

8.13.01.1 If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance/resolution. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 6 months.

8.13.01.2 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

8.13.02 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance/resolution. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 8.14 Penalties for Violation

Violation of the provisions of this ordinance/resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the Village or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 8.15 Abrogation and Greater Restrictions

It is not intended by this ordinance/resolution to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance/resolution imposes greater restrictions, the provision of this ordinance/resolution shall prevail. All other ordinances/resolutions inconsistent with this ordinance/resolution are hereby repealed to the extent of the inconsistency only.

Section 8.16 Interpretation

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

Section 8.17 Warning and Disclaimer of Liability

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

Section 8.18 All Applications Review

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

Section 8.19 Appeal

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Adjustment.

Section 8.20 Conflicting Ordinances/Resolutions

This ordinance/Resolution shall take precedence over conflicting Ordinances/Resolutions or parts of Ordinances/Resolutions. The Governing Body of the Village may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

Section 8.21 Definitions

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

8.21.01 ***"Base Flood"*** means the flood having one percent chance of being equaled or exceeded in any given year.

8.21.02 ***"Basement"*** means any area of the building having its floor subgrade (below ground level) on all sides.

8.21.03 ***"Development"*** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

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

8.21.06 ***"Flood"*** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation of runoff of surface waters from any source.

8.21.07 ***"Flood Insurance Rate Map (FIRM)"*** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.

8.21.08 ***"Floodplain"*** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

8.21.09 ***"Floodproofing"*** means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

8.21.10 ***"Floodway"*** means the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

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

8.21.14 ***"Manufactured Home Park or Subdivision"*** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

8.21.17 ***"100-Year Flood"*** means the condition of flooding having a one percent chance of annual occurrence.

8.21.18 ***"Principally Above Ground"*** means that at least 51 percent of the actual cash value of the structure is above ground.

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

8.21.20 ***"Regulatory Flood Elevation"*** means the water surface elevation of the 100-year flood.

8.21.21 ***"Special Flood Hazard Area"*** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

8.21.22 ***"Start of Construction"*** [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it

include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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

8.21.24 ***"Substantial Damage"*** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

8.21.26 ***"Variance"*** means a grant of relief to a person from the terms of a floodplain management ordinance.

8.21.27 ***"Violation"*** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE 9: BOARD OF ADJUSTMENT

Section 9.01 Members, Terms and Meetings

Pursuant to Neb. Rev. Stat. §19-908 (R.R.S.1997): The Village Board shall act as the Board of Adjustment, and each member of the Board of Adjustment shall be considered to be appointed for a term concurrent to their term of office on the Village Board and shall be removed from the Board of Adjustment when their term of office on the Village Board expires or is terminated. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §§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 Village 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; (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:

a. The strict application of the Ordinance would produce undue hardship;

b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

c. 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

d. 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 (4) 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

Regulations, restrictions, and boundaries authorized to be created pursuant to Neb. Rev. Stat. §§ 19-901 to 19-915 may from time to time be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred feet (300') therefrom, and of those directly opposite thereto extending three hundred feet (300') from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the legislative body of such municipality. The provisions of Neb. Rev. Stat. §19-904 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 eighteen inches (18") in height and twenty-four inches (24") in width with a white or yellow background and black letters not less than one and one-half inches (1-1/2") in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. 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. 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 three hundred feet (300') 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. 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 of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of Neb. Rev. Stat. § 19-904 shall be applicable.

Section 10.02 Planning & Zoning Board Review

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the Village Board without first the consideration by the Village Planning and Zoning Board, the Board shall submit in writing its recommendations on each amendment, supplement, change or modification to the Village Board within forty-five (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.

Section 10.03 Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by a Zoning Enforcement Officer appointed by the Village Board, 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 Wauneta's Zoning Jurisdiction:

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

9.04.02 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. He 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 are in conformity with the provisions of this Ordinance, and other Ordinances of the Village then in force, 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 twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

Section 10.05 Certificate of Zoning Compliance

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of zoning compliance stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a Certificate of Zoning Compliance if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

Section 10.06 Penalties

Pursuant to Neb. Rev. Stat. §19-913 (R.R.S.1997), 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 the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars ($500) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the Village 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 Neb. Rev. Stat. §§19-901 to 19-914 (R.R.S.1997), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 11: COMPREHENSIVE PLAN RELATIONSHIP

These zoning ordinances are 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.

ARTICLE 12: LEGAL STATUS PROVISIONS

Section 12.01 Separability

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

Section 12.02 Purpose of Catch Heads

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

Section 12.03 Repeal of Conflicting Ordinances

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

Section 12.04 Effective Date

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

ADOPTED AND APPROVED by the Governing Body of Wauneta, Nebraska,

This _____13th_____ day of __April_ (Ord #2004-1B)___, 2004.

(Seal)

ATTEST: __Patsy S Williams_____ ___Al Wilkins_____
Village Clerk Board Chairperson