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CHAPTER 10 – MUNICIPAL PLANNING

Article 1 – Comprehensive Plan

SECTION 10-101: ADOPTED

In order to accommodate anticipated long-range future growth, the Comprehensive Development Plan for the City, as prepared by Robert J. Selander and Associates, has been adopted by motion of the City Council on November 7, 1973. One copy of the adopted plan shall be kept on file with the city clerk and available for public inspection during office hours.

[Editor's Note: The Zoning Regulations were amended along with adoption of the Municipal Code of 1977, Ord. No. 600, 9/9/73, pursuant to the recommendations of the Planning Commission after the holding of the required public hearings and the consent of the Mayor and City Council.

The Zoning Regulations were amended by Hanna:Keelan Associates and adopted by Ord. No. 1495, 2/13/08, pursuant to the amendments approved by public hearings of both the Planning Commission and City Council.]

Article 2 – Zoning Regulations; General Provisions

SECTION 10-201: TITLE

This ordinance shall be known and cited and referred to as the Ainsworth Zoning Ordinance.

SECTION 10-202: OFFICIAL ZONING MAP

A. This city is hereby divided into zones, or 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.

B. The official Zoning Map shall be identified by the signature of the mayor attested by the city clerk and bearing the seal of the City under the following words: "This is to certify that this is the official Zoning Map referred to in Section 11-102 of Ordinance 1105 of the City of Ainsworth, State of Nebraska," together with the date of the adoption of this ordinance.

C. If, in accordance with the provision of this ordinance and applicable state statutes, changes are made in district boundaries or other matter portrayed on the official Zoning Map, such changes shall be entered on the Map promptly after the amendment has been approved by the City Council.

D. Any unauthorized change in the official Zoning Map and matter shown thereon by any person or persons that is not made in conformity with the procedures set forth in this ordinance shall be considered void and of no force and effect.

E. Regardless of the existence of purported copies of the official Zoning Map which may from time to time be made or published, the official Zoning Map which shall be located in the City Hall shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-203: REPLACEMENT OF OFFICIAL ZONING MAP

A. In the event that the official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new official Zoning Map which will supersede the prior map. The new official Zoning Map may correct drafting or other

errors or omissions in the prior map but no correction shall have the effect of amending the official Zoning Map or any subsequent amendment thereof. The new map shall be identified by the signature of the mayor attested by the city clerk, dated and bearing the seal of the City under the following words: "This is to certify that this official Zoning Map supersedes and replaces any previous official Zoning Map adopted by the City of Ainsworth, State of Nebraska."

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

SECTION 10-204: 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:

A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines;

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

C. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

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

E. Boundaries indicated as parallel to or extension of features indicated in subsections (A) through (D) above shall be so construed. The scale of the map shall determine distances not specifically indicated on the official Zoning Map;

F. 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 A through E above, the Board of Adjustment shall interpret the district boundaries;

G. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations of either portion of the lot.

SECTION 10-205: APPLICATION OF DISTRICT BOUNDARIES

A. *Districts.* For the purposes of this ordinance, the City of Ainsworth and the area extending one mile from the corporate limits is hereby divided into eight zoning

districts to be known as follows:

AGR	Agricultural Residential District
R-1	Residential District
R-2	Residential District
R-3	Residential District
C-1	Highway Commercial District
C-2	General Commercial District
M-1	Limited Industrial District
M-2	Heavy Industrial District

B. *Boundaries.* The boundaries of these districts are shown on the District Map of the City of Ainsworth, which accompanies and is made a part of this ordinance. The said District Map and all the notations, references, and other matters shown thereon shall be as much as a part of this ordinance as if the map was fully described herein. The said map is on file in the office of the city clerk.

C. *New Territory.* All territory which may hereafter be annexed to the City of Ainsworth shall automatically be classed as lying and being in the AGR Agricultural Residential District until such classification shall have been changed by an amendment to the zoning ordinance as provided by law, unless a different classification is made in the annexation ordinance.

D. *General Regulations.* Except as hereinafter provided:

1. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used for any purpose other than those permitted in the district in which such building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which such building is located.
3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the yard and lot area regulations of the district in which such building is located.
4. The minimum yards and open spaces, including lot area per family, required for each and every building existing at the time of the passage of this ordinance, shall not be encroached upon or considered as part of the yard or open space required for any other building.
5. All awnings which are now or shall hereafter be attached to any building within the City, and which extend over any public sidewalk, shall be at least six and one-half feet at their lowest point above the sidewalk. They

shall be supported without posts and attached firmly to the building so as to leave the sidewalk wholly unobstructed thereby. Any awning or sign projecting over any public sidewalk in the City which shall be determined by the Council to be unsafe to the public passing along the street shall upon written notice be forthwith removed or made safe to the satisfaction of the Council by the owner thereof. If he shall fail, refuse or neglect to comply with the order contained in such notice, it shall be the duty of the street superintendent to remove the awning or sign and the expense of such removal shall be paid by the owner thereof. In the event the owner shall fail to pay the city clerk, the cost thereof shall be assessed against said property.

6. Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
7. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

(Am. by Ord. No. 1105, 7/7/82)

Article 3 – Zoning Regulations; Definitions

SECTION 10-301: DEFINITIONS

For the purposes of this ordinance certain terms and words are herewith defined. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular. The word "shall" is mandatory.

"Accessory use of building" shall mean a subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or cellular towers of less than 50 feet, and residential or agricultural storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

"Agricultural farm or operation" shall mean a tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least 20 acres and which produces \$1,000.00 or more of farm products each year. (See Neb. Rev. Stat. §23-114.03 and -114.04)

"Agricultural activities" shall mean activities including the growing of field crops, fruit, vegetables, nursery stock and other feed grains, truck gardening; forest and forest products; horticulture; raising, grazing and feeding of livestock and poultry; animal husbandry; dairy farms; animal kennels; fur-bearing animal farms; processing and selling of products produced on the premises, not including, however, commercial feedlots and facilities, or packing and rendering plants.

"Abutting" shall mean adjoining.

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

"Apartment house" shall mean a building with more than two dwelling units.

"Automobile salvage yard" shall mean the same as junkyard.

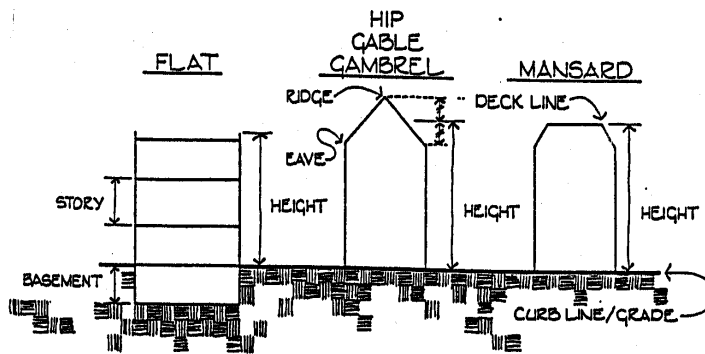
"Basement" shall mean that portion of a building between floors and ceiling, so located that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling. A basement shall not be counted in computing the number of stories.

"Board of Adjustment" shall mean the Ainsworth Board of Adjustment.

"Building" shall mean an enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. The term "building" includes "structure." Any "hoop" or "Quonset" buildings do not meet the definition of a "building" and are therefore only allowed as accessory buildings in the AGR Agricultural Residential District.

"Buildable area" shall mean the portion of a lot remaining after required yards have been provided.

"Building height" shall mean the vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.



"Building inspector" shall mean the zoning administrator or his/her designee.

"Campground" shall mean areas used and designed to accommodate two or more transient camping parties including tents or other camping outfits and travel trailers but not including mobile home parks or permanent mobile homes.

"Child care center" shall mean a facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Neb. Rev. Stat. §71-1908 through 71-1918 as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

"Child care home" shall mean a private home providing care for children for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

"City Council" shall mean the Ainsworth City Council.

"City Planning Commission" shall mean the Ainsworth City Planning Commission.

"Club or lodge" shall mean a building or facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purposes but not primarily for profit or to render a service which is customarily carried on as a business.

"Commercial feedlot and facilities" shall mean but not be limited to any permanent, fenced, dry lot status area where in excess of 25 head of livestock at any one time are fed and finished and all buildings and uses of land incidental to accomplishing said purpose.

"Comprehensive development plan" shall mean a general plan with amendments for the improvement of the City of Ainsworth as adopted by the City Council.

"Conditional use" and "special exception" are hereby declared to be the same and shall mean the use of an area which is contemplated by ordinance and which does not conform to the existing zoning district but may be permitted if it falls within certain facts and conditions.

"District" shall mean a zoning district established by this ordinance.

"Duplex" shall mean the same as dwelling; two dwelling units.

"Dwelling" shall mean a building or portion thereof designed exclusively for residential occupancy.

"Dwelling unit" shall mean a group of rooms or a single room with kitchen facilities occupied or intended for occupancy as separate living quarters by a family or other group of persons living together, or by a person living alone.

"Dwelling, single-family" shall mean one or more habitable rooms that are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating purposes, including a modular home. It does not include a manufactured home unless such manufactured home is a factory-built manufactured home that bears the seal that it was built in compliance with the *National Manufactured Home Construction and Safety Standards*, 24 C.F.R. 3280 et.seq., promulgated by the United States Department of Housing and Urban Development (H.U.D.), and meets the following standards:

- A. The home shall have no less than 900 square feet of floor area;
- B. The home shall have no less than an 18-foot exterior width;
- C. The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run;
- D. The exterior material shall be of a color, material and scale comparable

with those existing in residential sight-built single family construction;

- E. The home shall have a non-reflective roof material, which is or simulates asphalt or wood shingles, tile, or rock;
- F. The home shall have wheels, axles, transporting lights and removable towing apparatus removed; and
- G. The home shall be attached to a permanent foundation system and utility connections.

"Dwelling, two-family" shall mean a detached building designed exclusively for occupancy by two families living independently of each other under one roof.

"Dwelling, multiple-family" shall mean a building or portion thereof designed for occupancy by three or more families living independent of each other but under one roof.

"Dwelling, farm" shall mean a dwelling located on a farm or ranch and occupied by the owner, tenant or employee of the farm or ranch.

"Easement" shall mean a grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

"Family" shall mean one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.

"Fence" shall mean a tangible barrier or obstruction of any material, or a line of obstacles above the surface of the ground on each side thereof, interposed along a line between two portions of land with the purpose of intent, or having the effect of preventing passage or view across the fence line.

"Farm" shall mean a tract of land, including structures thereon, utilized primarily for agricultural purposes.

"Feedlot" shall mean the same as a commercial feedlot and facilities.

"Frontage" shall mean that portion of a parcel of property which abuts a public right-of-way.

"Group home" shall mean a facility which houses more than five but less than 16 persons who are unrelated by blood, marriage or adoption. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

"Highway, state and federal" shall mean highways which are so designated by the State of Nebraska.

"Home occupation" shall mean an occupation conducted in a dwelling unit, provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit, nor more than 400 square feet, shall be used in the conduct of home occupation;
- C. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the principal building;
- D. No home occupation shall be conducted in any accessory building;
- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided off the street and other than in the required front yard;
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.

"Junkyard" shall mean any area where waste, junk, or discarded or salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or wrecking of automobiles or other vehicles or machinery, house wrecking, and structural steel materials and equipment.

"Kennel" shall mean a lot, building, structure, enclosure or premises whereon three dogs or three cats six months of age or older are kept and maintained for any purpose whatsoever.

"Livestock" shall mean any domestic cattle, horses, mules, donkeys, sheep, swine or bison.

"Lot" shall mean a parcel of land occupied or intended for occupation by a use permitted in this ordinance and fronting upon a street or road.

“Lot frontage” shall mean the front of a lot shall be construed to be the portion nearest the street or road.

“Lot of record” shall mean a lot of which is part of a subdivision recorded in the office of the register of deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

"Lot" shall mean a parcel of land shown on the official plat map of the City, a subdivision map, a record of survey map, a subdivision plat map recorded in the office of the county register of deeds, a parcel described by metes and bounds, or a building site in one ownership having an area for each main building; the distance on a horizontal plane between the side lot lines of a lot measured at right angles to the line establishing the lot depth at the established building setback line.

“Lot, corner” shall mean a lot abutting two or more streets or roads at their intersection.

“Lot depth” shall mean the average horizontal distance between the front and rear lot lines.

“Lot frontage” shall mean the front of a lot shall be construed to be the portion nearest the street or road.

“Lot of record” shall mean a lot of which is part of a subdivision recorded in the office of the register of deeds or a lot or parcel described by metes and bounds the description of which has been so recorded.

“Lot width” shall mean the distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

“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 to compliance with *National Manufactured Home Construction and Safety Standards*, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Neb. Rev. Stat. §71-1557 bearing the seal of the Department of Health and Human Service System.

“Mobile home” shall mean a year-round, transportable structure which is a single-family dwelling unit suitable for permanent, more than 30 days of living quarters, more than 8 feet wide and 40 feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This

portable dwelling may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or two or more units, separately towable but designed to be joined as one integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or those manufactured in sections or parts away from the site and transported thereto for assembly.

“Mobile home park” shall mean any area of land which two or more mobile homes are parked, connected to utilities and used by one or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one or more mobile homes, connected to utilities and used by one or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

“Modular home” 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 units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services as established in Neb. Rev. Stat. §71-1557.

"Modular structure" shall mean the same as “modular dwelling” for any use.

“Non-conforming lot of record” shall mean a lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the approval date of this ordinance and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

“Non-conforming structure” shall mean an existing structure which does not comply with the lot coverage, height or yard requirements applicable to new structures in the zoning district in which it is located.

"Non-conforming use" shall mean any use, whether of a building, other structure, lot or tract of land, which does not conform to the use regulations for the district in which such non-conforming use is located, either at the effective date of this article or as a result of subsequent amendments which may be incorporated into this article.

"Parking space" shall mean a surfaced area, enclosed or unenclosed, sufficient in size to store one automobile not less than 9 feet wide and 20 feet long, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving another automobile.

"Planning Commission" shall mean the Ainsworth Planning Commission.

"Recycling center" shall mean a facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

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

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

"Road" shall mean the same as "street."

"Sanitary landfill" shall mean a lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Services.

"Sanitary transfer station" shall mean a collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Services.

"Sign" shall mean any device containing elements or symbols, organized or related, which is designed to inform or to attract the attention of persons not on the premises on which the sign is located; provided, however; that mailbox numbers or names, government flags or insignia, legal notices, governmental identification information or directional signs shall not be included in the application of these regulations.

"Sign, on-site" shall mean a sign relating in its subject matter to the premises on which it is located, or to the products, accommodations, services, or activities on the premises, or to the construction, sale, lease or rental of the premises. On-site signs do not include outdoor advertising signs or billboards.

"Special Exceptions/Conditional Use." See "Conditional Use, Special Exceptions."

"Solid waste disposal area" shall mean a type of operation in which garbage and refuse, or garbage or refuse deposited by a plant on a specified portion of land, is compacted by force applied by mechanical equipment, and then covered by compacted suitable covering material.

"Storage container" shall mean a container, including what is sometimes referred to as a "storage pod" or "portable on-demand storage unit"; any box van that has been disconnected from a chassis; and similar intermodal-type shipping/cargo containers that are (A) designed and commonly used for storing, shipping or transporting products and materials and (B) are typically transported by a separate motorized vehicle or upon a trailer.

"Story" shall mean that portion of a building included between the surface of a floor and the surface of the floor next above it or, if there is no floor above it, then the space between such floor and the ceiling next above it.

"Street" shall mean any thoroughfare or public way which has been dedicated to the public or deeded to the county or state for street or road purposes not less than 50 feet in width.

"Street line" shall mean the dividing line between a lot, tract, or parcel of land and the contiguous street; the right-of-way line of a street.

"Street center line" shall mean the centerline of a street right-of-way as established by official surveys.

"Structure" shall mean anything constructed or erected with a fixed location on the ground, whether entirely at or above the surface or partially or wholly beneath the surface, or attached to something having a fixed location on the ground. Among other things structures include buildings, mobile homes, walls, swimming pools, below ground hot tubs, parking lots, sidewalks, foundations, basements, cellars, or driveways, but not signs or fences as otherwise defined herein.

"Structural alteration" shall mean any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

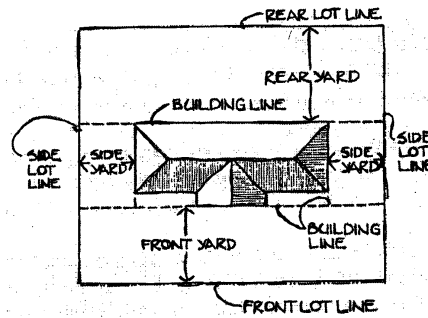
"Trailer home" shall mean the same as "mobile home."

"Travel trailer" shall mean a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation use and is permanently identified as a travel trailer by the manufacturer of the trailer.

"Variance" shall mean a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

"Yard" shall mean a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture

may be permitted in any yard subject to the district regulations.



"Yard, front" shall mean a yard extending from the front lot line adjoining a public street to the front between side lot lines.

"Yard, rear" shall mean an open space between a structure and side yard line measured horizontally and at right angles from the rear lot line to the nearest point of the structure.

"Yard, required" shall mean the required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in these regulations.

"Yard, side" shall mean a yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

"Zoning Board of Adjustment" shall mean the legally appointed board empowered to hear and decide appeals from and to provide interpretations of, the terms of the zoning ordinance and official maps as defined within this ordinance and in accordance with the laws of the State of Nebraska.

"Zoning district" shall mean an area delineated on a zoning map for which uniform use regulations are specified.

"Zoning map" means a map or maps officially enacted by the City Council as part of this ordinance, showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the city clerk as an official record of the City.

"Zoning administrator" shall mean the Ainsworth zoning administrator, being the person designated by the mayor and Council as the person responsible for the administration of the zoning ordinance and regulations.

Source: A Survey of Zoning Definitions, (American Planning Association, 1989).
(Am. by Ord. Nos. 1033, 5/16/79; 1105, 7/7/82; 1131, 4/6/83; 1277, 7/9/90; 1335, 12/15/93; 1384, 10/8/96; 1495, 2/13/08; 1516, 11/16/11)

Article 4 – Zoning Regulations; AGR Agricultural Residential District

SECTION 10-401: AGR INTENT

This district is intended for general agricultural purposes within one mile of the City of Ainsworth corporate limits. AGR zoned property adjacent to the corporate limits of the City reaching outward in conformance with identified future urban growth areas on the Future Land Use Plan illustrations of the Comprehensive Plan is intended to support general agricultural practices until a point in time when property owners/developers seek to subdivide, re-zone and develop the property for urbanized uses.

SECTION 10-402: AGR PERMITTED USES

In any AGR Agricultural Residential District, a building or premises shall be used only for the following purposes:

- A. Farming, ranching, truck gardens, and orchards, including the usual farm buildings and structures, but excluding the development of new or the expansion of existing commercial feedlots and facilities.
- B. Family dwelling, including modular dwelling or mobile home conforming to all building, electrical, plumbing and housing codes adopted by the City.
- C. Churches and parish halls, temples, convents, and monasteries.
- D. Public parks, playgrounds, and community centers.
- E. Public schools, elementary and high, and private educational institutions, having a curriculum the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping rooms.
- F. Forests, nurseries, orchards, and greenhouses upon a lot, tract, or a parcel of land containing an area of not less than three acres.
- G. Hospitals or clinics for animals, provided that if cloven-footed animals or animals exceeding 75 pounds in weight are to be treated, such hospital shall be located on a tract of land of not less than ten acres and that no treatment rooms or pens for cloven-footed animals or animals exceeding 75 pounds in weight shall be maintained closer than 200 feet to any property line; and further provided that if open kennels are to be provided, no kennel shall be located closer than 200 feet to any property line.
- H. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations.

- I. On-site signs located not less than 10 feet from any property line and lot exceeding 30 square feet in area.
- J. Off-site signs, providing no sign shall be located within 300 feet of an R-1 and R-3 Residential District.
- K. Agricultural activities.

SECTION 10-403: AGR ACCESSORY USES

The following accessory uses and structures shall be permitted, when in conformance with Section 10-1207 of this ordinance.

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this district.
- B. Home occupations. (Ord. No. 1495, 2/13/08)
- C. Roadside stands for seasonal sale of farm products which are produced upon the premises.

SECTION 10-404: AGR CONDITIONAL USES

A building or premises may be used for the following purposes in the AGR Agricultural Residential District if the proposed use is determined to be in accordance with the provisions of Section 10-1610, after the Planning Commission and City Council have conducted public hearings and by consensus, approved the application for such use.

- A. Airport.
- B. Radio and television towers and transmitters.
- C. Sanitary licensed landfill.
- D. Hospital.
- E. Alcohol, gasohol, or ethanol plant.
- F. Storage containers.

(Ord. Nos. 1495, 2/13/08; 1517, 11/16/11)

SECTION 10-405: AGR MINIMUM AREA REGULATIONS

Use	Minimum Lot Area
Single Family Dwelling	3 acres
Other Permitted Uses	3 acres
Accessory Buildings	None

(Ord. No. 1495, 2/13/08)

SECTION 10-406: AGR MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

Use	Front Yard	Side Yard	Rear Yard	Height (1)
Single Family Dwelling	25'	10'	25'	2½ stories
Other Permitted Uses	25'	10'	25'	2½ stories

Use	Front Yard	Side Yard	Rear Yard	Height (1)
Accessory Buildings	25'	5'	5'	2½ stories
(1) Except as herein provided in Article 12.				

(Am. by Ord. No. 1335, 12/15/93)

SECTION 10-407: AGR PARKING REGULATIONS

Parking within the AGR Agricultural Residential District shall be in conformance with the provisions of Article 14 of these regulations.

SECTION 10-408: AGR FENCE REGULATIONS

Fences, walls and hedges within the AGR Agricultural Residential District shall be in conformance with the provisions of Section 10-1209 of these regulations.

SECTION 10-409: AGR VISIBILITY AT INTERSECTIONS

On a corner lot within the AGR Agricultural Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of these regulations.

Article 5 – Zoning Regulations; R-1 Residential District

SECTION 10-501: R-1 INTENT

This district intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures by also including the permitted uses set forth in Section 10-502 below. (Ord. No. 1495, 2/13/08)

SECTION 10-502: R-1 PERMITTED USES

In the R-1 Residential District, a building or premises shall be used only for the following purposes.

- A. Single-family dwelling.
- B. Two family dwelling.
- C. Public park, playground, golf course, and other public recreational uses.
- D. Church, educational facilities and parish house.

SECTION 10-503: R-1 ACCESSORY USES

The following accessory uses and structures shall be permitted, when in conformance with Section 10-1207 of this ordinance.

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this District, but not storage containers.
- B. Home occupations.

(Am. by Ord. No. 1518, 11/16/11)

SECTION 10-504: R-1 CONDITIONAL USES

A building or premises may be used for the following purposes in the R-1 Residential District if the proposed use is determined to be in accordance with the provisions of Section 10-1610 after the Planning Commission and City Council have conducted public hearings and by consensus, approved the application for such use:

- A. Social center. (Ord. No. 1495, 2/13/08)

SECTION 10-505: R-1 MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

Use	Lot Area	Minimum Front Footage	Front Yard	Side Yard	Rear Yard	Height (1)
Single-Family Dwelling (2)	9,000 sq. ft.	80'	25'	10'	25'	2½ stories or 35'
Two-Family Dwelling (2)	10,000 sq. ft.		25'	10'	25'	2½ stories or 35'

Use	Lot Area	Minimum Front Footage	Front Yard	Side Yard	Rear Yard	Height (1)
Other Permitted Uses (2)	10,000 sq. ft.		25'	10'	30'	2½ stories or 35'
Accessory Buildings	Refer to Section 10-1207.					
(1) Except as herein provided in Article 12.						
(2) Maximum lot coverage by buildings shall be 45%.						

(Am. by Ord. No. 1105, 7/7/82; 1495, 2/13/08)

SECTION 10-506: R-1 PARKING REGULATIONS

Parking within the R-1 Residential District shall be in conformance with the provisions of Article 14 of these regulations. (Ord. No. 1495, 2/13/08)

SECTION 10-507: R-1 FENCE REGULATIONS

Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of Section 11-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-508: R-1 VISIBILITY AT INTERSECTIONS

On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-509: R-1 SIGN REGULATIONS

All signs constructed in the R-1 Residential District shall be in conformance with the provisions of Section 10-1216 of this ordinance and with the following:

- A. On-site signs not exceeding 10 square feet in area. (Ord. No. 1495, 2/13/08)

Article 6 – Zoning Regulations; R-2 Residential District

SECTION 10-601: R-2 INTENT

This district is intended to provide for residential uses consisting of single-family, two-family and multifamily dwelling units at higher densities than those of the R-1 Residential District and utilized to buffer single family residential areas from more intensive commercial and industrial uses. (Ord. No. 1495, 2/13/08)

SECTION 10-602: R-2 PERMITTED USES

In the R-2 Residential District, a building or premises shall be used only for the following purposes:

- A. Any use permitted in the R-1 Residential District.
- B. Multiple-family dwelling which provides adequate access to all units.
- C. Conversion of existing dwelling to a multiple-family dwelling, provided the liveable floor area of each unit is not less than 600 square feet.

SECTION 10-603: R-2 ACCESSORY USES

The following accessory uses and structures shall be permitted when in conformance with Section 10-1207 of this ordinance.

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this District, but not storage containers.
- B. Home occupations.

(Am. by Ord. No. 1518, 11/16/11)

SECTION 10-604: R-2 CONDITIONAL USES

A building or premises may be used for the following purposes in the R-2 Residential District if the proposed use is determined to be in accordance with the provisions of Section 10-1610 after the Planning Commission and City Council have conducted public hearings and by consensus approved the application for such use.

- A. Any conditional use listed in R-1.
- B. Licensed day care center.
- C. School.
- D. Public building.
- E. Fire station.
- F. Hospital and rest home.
- G. Professional services offices.
- H. Any use permitted in the C-1 Commercial District.

(Ord. Nos. 1495, 2/13/08; 1520, 7/11/12)

SECTION 10-605: R-2 MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

Use	Lot Area	Front Yard	Side Yard	Rear Yard	Height (1)
Single-Family Dwelling (3)	5,000 sq. ft.	25'	5'	25'	2½ stories or 35'
Two-Family Dwelling (3)	7,000 sq. ft.	25'	5'	25'	2½ stories or 35'
Multiple-Family Dwelling (2)(3)(4)	1,500 sq. ft. per unit	25'	10'	25'	2½ stories or 35'
Multiple-Family Conversion	5,000 sq. ft.	25'	5'	25'	3 stories or 45'
Other Permitted Uses	10,000 sq. ft.	25'	10'	30'	2½ stories or 35'
Accessory Buildings	Refer to Section 10-1207.				
(1) Except as herein provided in Article 12. (2) Maximum lot area of 7,000 square feet. (3) Maximum lot coverage by building shall be 45%. (4) Not less than 8% of the total required area shall be designated and used for park, playground and recreational purposes for dwellings consisting of four or more units.					

(Am. by Ord. Nos. 1105, 7/7/82; 1437, 1/31/00)

SECTION 10-606: R-2 PARKING REGULATIONS

Parking within the R-2 Residential District shall be in conformance with the provisions of Article 14 of these regulations. (Ord. No. 1495, 2/13/08)

SECTION 10-607: R-2 FENCE REGULATIONS

Fences, walls and hedges within the R-2 Residential District shall be in conformance with the provisions of Section 10-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-608: R-2 VISIBILITY AT INTERSECTIONS

On a corner lot within the R-2 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-609: R-2 SIGN REGULATIONS

All signs constructed in the R-2 Residential District shall be in conformance with the provisions of Section 10-1216 of this ordinance and with the following:

- A. On-site signs not exceeding 20 square feet in area.

Article 7 – Zoning Regulations; R-3 Residential District

SECTION 10-701: R-3 INTENT

It is the intent of this district to provide for single- and multiple-family residential uses and development of residential dwellings including mobile homes and mobile home parks. Mobile home parks are considered as a residential use and should be located in areas where services and amenities are available, such as those found in conventional residential uses. (Ord. No. 1495, 2/13/08)

SECTION 10-702: R-3 PERMITTED USES

In the R-3 Residential District, a building or premises shall be used only for the following purposes:

- A. Any use permitted in the R-2 Residential District.
- B. Mobile homes.

SECTION 10-703: R-3 ACCESSORY USES

The following accessory uses and structures shall be permitted, when in conformance with Section 10-1207 of this ordinance:

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this District, but not storage containers.
- B. Home occupations.

(Ord. Nos. 1495, 2/13/08; 1518, 11/16/11)

SECTION 10-704: R-3 CONDITIONAL USES

A building or premises may be used for the following purposes in the R-3 Residential District if the proposed use is determined to be in accordance with the provisions of Section 10-1610 after the Planning Commission and City Council have conducted public hearings and by consensus approved the application for such use.

- A. Any conditional use listed in the R-2 Residential District.
- B. Mobile home parks in accordance with Section 10-1220.

(Ord. No. 1495, 2/13/08)

SECTION 10-705: R-3 MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

Use	Lot Area	Front Yard	Side Yard	Rear Yard	Height (1)
Single-Family Dwelling (3)	5,000 sq. ft.	25'	5'	25'	2½ stories or 35'

Use	Lot Area	Front Yard	Side Yard	Rear Yard	Height (1)
Two-Family Dwelling (3)	7,000 sq. ft.	25'	5'	25'	2½ stories or 35'
Multiple-Family Dwelling (2)(3)	1, 500 sq. ft. per unit	25'	10'	25'	2½ stories or 35'
Multiple-Family Conversion (3)	5, 000 sq. ft.	25'	5'	25'	3 stories or 45'
Mobile Home	Refer to Section 10-1220.				
Mobile Home Court	Refer to Section 10-1220.				
Other Permitted Uses	10, 000 sq. ft.	25'	10'	30'	2½ stories or 35'
Accessory Uses	Refer to Section 10-1107				
(1) Except as herein provided in Article 12.					
(2) Maximum lot area of 6,000 square feet.					
(3) Maximum lot coverage by building shall be 45%.					

SECTION 10-706: R-3 PARKING REGULATIONS

Parking within the R-3 Residential District shall be in conformance with the provisions of Article 14 of these regulations. (Ord. No. 1495, 2/13/08)

SECTION 10-707: R-3 FENCE REGULATIONS

Fences, walls and hedges within the R-3 Residential District shall be in conformance with the provisions of Section 10-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-708: R-3 VISIBILITY AT INTERSECTIONS

On a corner lot within the R-3 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-709: R-3 SIGN REGULATIONS

All signs constructed in the R-3 Mobile Home Residential District shall be in conformance with the provisions of Section 10-1216 of this ordinance and with the following:

- A. On-site signs not exceeding 20 square feet in area.

Article 8 – Zoning Regulations; C-1 Highway Commercial District

SECTION 10-801: C-1 INTENT

The C-1 Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties. (Ord. No. 1495, 2/13/08)

SECTION 10-802: C-1 PERMITTED USES

In the C-1 Commercial District, a building or premises shall be used only for the following purposes:

- A. Automobile and trailer sales or public garages when located at least 50 feet away from any R-1 Residential District boundary.
- B. Commercial recreational facilities (bowling alleys, dance halls, skating rinks or similar uses).
- C. Restaurants, including drive-in establishments.
- D. Farm implement sales and service.
- E. Convenience stores or gas stations.
- F. Frozen food lockers.
- G. Construction and contractors' offices and warehouse, when outside storage of equipment and supplies are with a sight-obscuring fence.
- H. Motels, including accessory service uses, such as swimming pools, restaurants and nightclubs/bars/taverns.
- I. Taverns, bars and liquor stores.
- J. Undertaking establishments or funeral homes.
- K. Lumber yards.
- L. Veterinary or animal hospitals or clinics, provided that any treatment rooms, pens, or kennels be located within a completely enclosed, soundproof building and so operated as not to produce any objectionable odors outside the walls.

- M. Mini-storage facilities.
- N. Medical clinics and medical supply stores. (Ord. No. 1495, 2/13/08)
- O. Detached banking facilities (ATMs).
- P. Public buildings and Utilities, including shops and offices.
- Q. Transportation warehousing.
- R. Trucks and freight terminals.
- S. Any other business or commercial use similar to the above involving primarily sales of goods at retail or services, as distinguished from manufacturing and processing.
- T. Any permitted use in a C-2 Zone.

SECTION 10-803: C-1 PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted when in conformance with Section 10-1207 of the ordinance:

A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this district. (Ord. No. 1495, 2/13/08)

SECTION 10-804: C-1 CONDITIONAL USES

A building or premises may be used for the following purposes in the C-1 Commercial District if the proposed use is determined to be in accordance with the provisions of Section 10-1610, after the Planning Commission and City Council have conducted public hearings and by consensus approved the application for such use:

- A. Private clubs and lodges.
- B. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals.
- C. Radio studios; transmitters, antenna and cellular towers when located beyond the corporate limits of the City but within the one-mile planning jurisdiction area.
- D. Recycling centers.
- E. Single-family dwellings.

F. Storage containers.
(Ord. Nos. 1495, 2/13/08; 1517, 11/16/11)

SECTION 10-805: C-1 MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

Use	Minimum Lot Size	Front Yard	Side Yard	Rear Yard	Height (1)
Permitted Uses	5,000 sq. ft.	25'	10'	20'	3 stories or 45'
(1) Except as herein provided in Article 12.					

(Am. by Ord. Nos. 1105, 7/7/82; 1130, 2/2/83; 1412, 5/6/98)

SECTION 10-806: C-1 SCREENING REQUIREMENTS

A. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge 6 feet in height may be required on the property line common to such districts, except in a required front yard.

B. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

(Ord. No. 1495, 2/13/08)

SECTION 10-807: C-1 PARKING REGULATIONS

Parking within the C-1 Commercial District shall be in conformance with the provisions of Article 14 of these regulations. (Ord. No. 1495, 2/13/08)

SECTION 10-808: C-1 FENCE REGULATIONS

Fences, walls and hedges within the C-1 Commercial District shall be in conformance with the provisions of Section 10-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-809: C-1 SIGN REGULATIONS

All signs constructed in the C-1 Commercial District shall be in conformance with the provisions of Section 10-1216 of this ordinance and with the following:

A. Signs on-site, set back 10 feet from street and not more than 150 square feet unless flat against the wall of a building.

(Ord. No. 1495, 2/13/08)

SECTION 10-810: C-1 VISIBILITY AT INTERSECTIONS

On a corner lot within the C-1 Commercial District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of this ordinance. (Ord. No. 1495, 2/13/08)

Article 9 – Zoning Regulations; C-2 General Commercial District

SECTION 10-901: C-2 INTENT

This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use are permitted in this district. (Ord. No. 1495, 2/13/08)

SECTION 10-902: C-2 PERMITTED USES

In the C-2 Commercial District, a building or premises shall be used only for the following purposes:

- A. Apartments on floors other than ground floor.
- B. Automobile and trailer sales or public garages, when located at least 50 feet away from any R-1 Residential District boundary.
- C. Bakeries.
- D. Banks, savings and loan associations, credit unions and finance companies.
- E. Barbershops, beauty parlors and shoeshine shops.
- F. Business offices.
- G. Child care homes and centers.
- H. Commercial or publicly operated teen center
- I. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses).
- J. Detached banking facilities (ATMs).
- K. Dry cleaning or laundry establishments.
- L. Food service, restaurants and taverns.
- M. Garden centers.
- N. Grocery stores.
- O. Hotels.

- P. Museums and art galleries.
- Q. Office buildings.
- R. Parking lots and other off-street parking facilities.
- S. Personal and professional services.
- T. Photography studios.
- U. Private schools, including but not limited to business or commercial schools and dance or music academies.
- V. Public and private charitable institutions.
- W. Public parks, buildings and grounds.
- X. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities.
- Y. Retail store or commercial business/enterprises.
- Z. Public utility facilities.
- AA. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings.
- BB. Stores or shops for the sale of goods at retail and/or wholesale.

CC. Video game parlor, or teen center.
(Ord. No. 1495, 2/13/08)

SECTION 10-903: C-2 ACCESSORY USES

The following accessory uses and structures shall be permitted when in conformance with Section 10-1207 of this ordinance:

A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this District.
(Ord. No. 1495, 2/13/08)

SECTION 10-904: C-2 CONDITIONAL USES

A building or premises may be used for the following purposes in the C-2 Commercial

District if the proposed use is determined to be in accordance with the provisions of Section 10-1610, after the Planning Commission and City Council have conducted public hearings and by consensus approved the application for such use.

- A. Multi-family dwellings.
- B. Bed and breakfast guest homes.
- C. Single-family dwellings.
- D. Storage containers.

(Ord. Nos. 1495, 2/13/08; 1517, 11/16/11)

SECTION 10-905: C-2 SCREENING REQUIREMENTS

A. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge 6 feet in height may be required on the property line common to such districts, except in a required front yard.

B. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

(Ord. No. 1495, 2/13/08)

SECTION 10-906: C-2 HEIGHT AND AREA REGULATIONS

Use	Lot Area	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted Uses	3,750 sq. ft.	25'	0'	0' or 10' when abutting a residential district	15'	45'
Multi-Family Dwelling	2,200 sq. ft. per family	50'	25'	5' or 7½' on corner lots	15'	45'

(Ord. No. 1495, 2/13/08)

SECTION 10-907: C-2 PARKING REGULATIONS

Parking within the C-2 Commercial District shall be along the public streets throughout the Central Business District. No off-street parking is required by individual properties. (Ord. No. 1495, 2/13/08)

SECTION 10-908: C-2 FENCE REGULATIONS

Fences, walls and hedges within the C-2 Commercial District shall be in conformance with the provisions of Section 10-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-909: C-2 SIGN REGULATIONS

All signs constructed in the C-2 Commercial District shall be in conformance with the

provisions of Section 10-1216 of this ordinance and with the following:

- A. Signs on-site, not more than 150 square feet unless flat against the wall of a building.
(Ord. No. 1495, 2/13/08)

Article 10 – Zoning Regulations; M-1 Limited Industrial District

SECTION 10-1001: M-1 INTENT

This district is designed to provide for a wide range of light industrial and related uses.

SECTION 10-1002: M-1 PERMITTED USES

A. In any M-1 Industrial District, a building or premises shall be used only for light manufacturing uses which do not create any more danger to health and safety in surrounding area and which do not create any more offensive noise, vibrations, smoke, dust, lint, odors, heat, or glare than what is generally associated with light industries.

1. Agriculture, excluding the expansion of existing or development of commercial livestock facilities/operations.
2. Animal care.
3. Automobile sales and services.
4. Automotive wash facilities.
5. Bottling works.
6. Building material sales, except for ready-mix concrete plants and similar uses which emit particulate, odor or smoke.
7. Carpenter, cabinet, plumbing or sheet metal shops.
8. Grain storage.
9. Construction sales and services.
10. Dry cleaning and/or laundry plants.
11. Farm implementation sales and services.
12. Farm produce sales.
13. Food service, restaurants and taverns.
14. Freight and truck terminals.

15. Frozen food lockers.
16. Furniture warehouses.
17. Garden centers and nurseries.
18. Groceries, retail and wholesale.
19. Light manufacturing operations, providing that such use is not noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulates, fumes, gas, odor, or smoke.
20. Machinery sales and storage lots.
21. Mobile and modular home sales and manufacturing.
22. Newspaper publishing plants.
23. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools and junior high schools, high schools; private non-profit schools, churches, parsonages, and other religious institutions; parks and playgrounds.
24. Public utility and public service uses.
25. Transportation warehousing.
26. Warehouse or storage houses.
27. Wholesale sales and services.
28. Any similar uses that are determined by the City Council after referral to and recommendation by the Planning Commission to be of an industrial use similar to the above-listed uses.

(Ord. No. 1495, 2/13/08)

- B. The uses enumerated above shall be subject to the following provisions:
1. All uses shall be conducted within an enclosed building with no open storage of waste material.
 2. All main plant buildings shall be of concrete, structural steel or masonry construction and limited to 30 feet in height unless otherwise approved by the City Planning Commission.

SECTION 10-1003: M-1 PERMITTED ACCESSORY USES

The following accessory uses and structures shall be permitted when in conformance with Section 10-1207 of the ordinance:

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this district.

(Ord. No. 1495, 2/13/08)

SECTION 10-1004: M-1 CONDITIONAL USES

A building or premises may be used for the following purposes in the M-1 Industrial District if the proposed use is determined to be in accordance with the provisions of Section 10-1610, after the Planning Commission and City Council have conducted public hearings and by consensus approved the application for such use.

- A. Junk and salvage yard.
- B. Recycling center.
- C. Ethanol and/or alcohol plants.
- D. Storage containers.

(Ord. Nos. 1495, 2/13/08; 1517, 11/16/11)

SECTION 10-1005: M-1 MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

	Lot Area	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height (1)
Permitted Uses	10, 000 sq. ft.	50'	25'	0', 20' when abutting a residential district	20'	45'

(1) Except as herein provided in Article 12.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1006: M-1 PARKING REGULATIONS

Parking within the M-1 Industrial District shall be in conformance with the provisions of Article 14 of these regulations. (Ord. No. 1495, 2/13/08)

SECTION 10-1007: M-1 FENCE REGULATIONS

Fences, walls and hedges within the M-1 Industrial District shall be in conformance with the provisions of Section 10-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-1008: M-1 SIGN REGULATIONS

All signs constructed in the M-1 Industrial District shall be in conformance with the provisions of Section 10-1216 of this ordinance and with the following:

A. Signs on-site, set back 10 feet from street and not more than 150 square feet unless flat against the wall of a building.
(Ord. No. 1495, 2/13/08)

SECTION 10-1009: M-1 VISIBILITY AT INTERSECTIONS

On a corner lot within the M-1 Industrial District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of this ordinance. (Ord. No. 1495, 2/13/08)

Article 11 – Zoning Regulations; M-2 Heavy Industrial District

SECTION 10-1101: M-2 INTENT

It is the intent of Heavy Industrial District to provide land for the widest range of industrial operations permitted in the planning jurisdiction area. (Ord. No. 1495, 2/13/08)

SECTION 10-1102: M-2 PERMITTED USES

In any M-2 Industrial District, a building or premises shall be used only for the following purposes:

- A. Any use permitted in M-1 Industrial District.
- B. Animal care and hospitals.
- C. Carton, express or storage yard.
- D. Construction and contractors offices, warehouse and outside storage of equipment and supplies, when enclosed in a sight obscuring fence.
- E. Lumber yard.
- F. Grain elevator.
- G. Auto wrecking or junk yard, but only when located inside a building or when wholly enclosed by a fence not less than 8 feet in height and in which the openings or cracks are less than 15% of the total area.
- H. Frozen food lockers.
- I. Gas and petroleum field services.
- J. Harvesting services.
- K. Irrigation equipment sales and manufacture.
- L. Machinery sales and storage lots.
- M. Outdoor advertising services.
- N. Road maintenance yards.
- O. Seed cleaning and processing.

P. Storage yards.

Q. Water well, drilling services.

(Ord. No. 1495, 2/13/08)

SECTION 10-1103: M-2 ACCESSORY USES

The following accessory uses and structures shall be permitted in the M-2 Industrial District, when in conformance with Section 10-1207 of the ordinance:

A. Accessory uses and structures normally appurtenant to the permitted uses and structures authorized by this district.

(Ord. No. 1495, 2/13/08)

SECTION 10-1104: M-2 CONDITIONAL USES

A building or premises may be used for the following purposes in the M-2 Industrial District if the proposed use is determined to be in accordance with the provisions of Section 10-1610 after the Planning Commission and City Council have conducted public hearings and by consensus approved the application for such use.

A. Agricultural chemicals manufacturing.

B. Bulk petroleum storage wholesale.

C. Expansion of nonconforming use.

D. Grain elevators.

E. Gravel, stone and sand quarrying.

F. Manufacturing, fabricating or processing operations not elsewhere listed which may be noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.

G. Meat packing plants.

H. Petroleum and natural gas refining and processing.

I. Radio studios; transmitters, antenna and cellular towers, when located beyond the corporate limits of the City but within the one-mile planning jurisdiction.

J. Refuse incineration (hospital needs?).

K. Ready mix concrete and asphalt mix plants.

L. Solid waste transfer stations.

M. Storage of bulk oil, gas and explosives.

N. Motor vehicle body shop.

O. Storage containers.

(Ord. Nos. 1495, 2/13/08; 1517, 11/16/11)

SECTION 10-1105: M-2 MINIMUM LOT AND MAXIMUM HEIGHT REGULATIONS

Use	Lot Area	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted Uses	10, 000 sq. ft.	80'	25'	10' or 25' when adjacent to residential districts	20'	75'

(Ord. No. 1495, 2/13/08)

SECTION 10-1106: M-2 PARKING REGULATIONS

Parking within the M-2 Industrial District shall be in conformance with the provisions of Article 14 of these regulations. (Ord. No. 1495, 2/13/08)

SECTION 10-1107: M-2 FENCE REGULATIONS

Fences, walls and hedges within the M-2 Industrial District shall be in conformance with the provisions of Section 10-1209 of this ordinance. (Ord. No. 1495, 2/13/08)

SECTION 10-1108: M-2 SIGN REGULATIONS

All signs constructed in the M-2 Industrial District shall be in conformance with the provisions of Section 10-1216 of this ordinance and with the following:

A. Signs on-site, set back 10 feet from street and not more than 150 square feet unless flat against the wall of a building.

(Ord. No. 1495, 2/13/08)

SECTION 10-1109: M-2 VISIBILITY AT INTERSECTIONS

On a corner lot within the M-2 Industrial District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of this ordinance. (Ord. No. 1495, 2/13/08)

Article 12 – Zoning Regulations; Supplementary Regulations

SECTION 10-1201: PROJECTIONS FROM BUILDINGS

Cornices, eaves, canopies, belt courses, sills, and ornamental features may project not more than 2 feet into any required yard or into required open spaces. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1202: GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS

If, at the time of passage of this ordinance, a lot or the aggregate of contiguous lots or land parcels held in a single ownership has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district and providing, if there is any area deficiency, residential use shall be limited to a single-family dwelling.

SECTION 10-1203: GENERAL EXCEPTION TO BUILDING HEIGHT LIMITATIONS

Subject to Federal Aviation Administration approval, the following types of structures or structural parts are not subject to the building height limitations of this ordinance: Chimneys, cupolas, domes, monuments, fire and hose towers, flagpoles, amateur transmission and receiving towers such as ham radio equipment, masts, aerials, water towers, elevator shafts and conveyors. These provisions do not include communication or cellular towers. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1204: FRONT YARD

In all residential districts, irrespective of which way a building faces, both street frontages on a corner lot shall be considered as front yards and shall meet the front yard requirements in that particular district. The remaining lot lines will be considered as side yards and meet the side yard requirements of that particular district. Where 50% of the total lot frontage feet on one side of a street between two intersecting streets is developed, the setback requirement shall be the average setback of the existing improvements. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1205: YARD SPACE ENCROACHMENTS; PORCHES AND TERRACES

Open, uncovered porches and terraces may extend 3 feet into any required side yard, 10 feet into any required front yard, and any distance into any required rear yard. No railing or other barrier higher than 42 inches shall be placed on such porch or terrace within 5 feet of any property line except as provided herein. Any such porch or terrace located on a lot at the intersection of two streets or a street and an alley shall comply with the provisions designed to ensure proper sight as set forth in

this chapter for fences. A covered porch or terrace, not exceeding 60 square feet, may extend a maximum for 6 feet into any required front yard. (Ord. No. 1388, 4/9/97)

SECTION 10-1206: YARD SPACE ENCROACHMENTS; HANDICAP RAMPS

Nothing herein shall prevent or prohibit the installation of handicap ramps providing accessibility to any building provided that any such ramp shall not extend into any required front yard or side yard beyond the building side of the sidewalk and, provided further, any such handicap ramp shall, if extended to the sidewalk, be level with said sidewalk at the point of intersection between the ramp and the sidewalk. (Ord. No. 1388, 4/9/97)

SECTION 10-1207: ACCESSORY BUILDINGS

A. Buildings and structures may be erected and land may be used for purposes which are clearly incidental to and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof and shall be on the premises of the main use. No accessory building shall be constructed as the only structure on an individual lot of record.

B. Any accessory building shall have a minimum side yard setback of 5 feet on interior lots and 25 feet on both sides of corner lots; and all garage entrances shall be a minimum of 10 feet from the rear property line when garage opening is perpendicular to the access alley or 25 feet perpendicular to the access street.

C. Accessory buildings which do not have vehicle entry doors facing the alley, and all other accessory buildings, shall have a minimum rear yard setback of 5 feet. Attached garages are considered part of principal building. All accessory buildings shall be erected a minimum of 5 feet from any other building. Accessory buildings shall not exceed 17 feet in height. There shall be a maximum of two accessory buildings; the maximum floor area of one of the accessory buildings equaling 720 square feet or half the first floor area of the principal permitted dwelling, whichever is greater. A second accessory building shall have a maximum floor area of 120 square feet. (Ord. No. 1495, 2/13/08)

SECTION 10-1208: FLOOR AREA OF NEW DWELLING UNITS

No individual dwelling unit shall have less than 900 square feet in an R-1 District and 600 square feet in an R-2 District of livable floor space for a single-family dwelling and 550 square feet for a multiple-family dwelling. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1209: FENCES; HEIGHT REGULATIONS; CONSTRUCTION

Any fence within a residential district is subject to the following:

A. The street frontage shall be a maximum of 42 inches in height above the sidewalk; provided, when no sidewalk exists, the height of the fence will be measured from ground level at the location of the fence.

B. In side yards and rear yards, fences shall be a maximum of 72 inches in height measured from ground level at the location of the fence.

C. No fence shall be erected within the triangular area bounded by the boundary line of the two intersecting streets and by a line connecting a point on each of said street boundary lines respectively, that is, 20 feet from the point of intersection of such boundary lines.

D. The structural support for any fence shall be toward the private side away from public view.

E. All fences shall be constructed and maintained in a straight and true condition. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.

F. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

G. Every fence shall comply with the provisions of this section after the person wishing to build obtains a building permit.

(Am. by Ord. Nos. 1026, 11/1/78; 1105, 7/7/82; 1383, 9/30/96)

SECTION 10-1210: BASEMENT REGULATIONS

No basement shall be used as a dwelling unit until the entire structure above the ground is completely constructed or until the owner has given the building inspector satisfactory assurance that the basement will not be occupied for a period of longer than 12 months. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1211: HEIGHT REGULATIONS, ANY STRUCTURE

In all districts where their use is permitted, public and quasi-public buildings, schools, churches, hospitals, or sanitariums may be erected to a height not exceeding 60 feet when set back an additional foot on all sides for each foot that such buildings may exceed 35 feet in height. All buildings 45 feet or more must meet health requirements. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1212: ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

In any district more than one structure housing a permitted or permissible use may be erected on a single lot provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot; provided, however, there must be at least 20 feet between principal structures. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1213: PARKING AND STORAGE OF CERTAIN VEHICLES

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any district other than in completely enclosed buildings, except in permitted auto salvage yards and authorized dealerships. All recreational vehicles and boat trailers shall be parked immediately behind the principal structure or in an enclosed building. No such recreational vehicles shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1214: WATER AND SEWER FACILITIES

In all districts where a building structure or use hereafter established requires the use of water and sewage disposal facilities and any water or sewage disposal facilities are hereafter provided for an existing building, structure or use, such facilities shall be used in accordance with this ordinance. The location, construction, connection and use of all water and sewage disposal facilities hereafter provided, except those to be used for livestock or other non-human purposes, shall be approved and comply with all city, county and state codes and regulations. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1215: NUISANCES PROHIBITED

A. No nuisance will be permitted to exist in any district. A nuisance is defined as any structure or use in violation of this ordinance or any use or structure which (1) injures or endangers health, safety or welfare, (2) constitutes or creates a fire hazard, (3) obstructs or endangers the use of streets or public ways or (4) is offensive to the senses.

B. The following structures and uses of property are declared to be nuisances:

1. Storage, accumulation, keeping, placing or allowing to remain of trash, garbage, junk, scrap and wrecked, worn out, broken or inoperative or partially destroyed or disassembled personal or real property of any kind, including motor vehicles, tractors, trailers, machinery and equipment.
2. Open privies, vaults or cesspools.
3. Accumulation of any matter which produces foul or noxious odors, serves

as a haven for rats, or is so unsightly as to depreciate property values or create a fire hazard.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1216: SIGNS

All signs in all districts shall conform to the following requirements:

A. All signs and sign structures shall be kept in good repair and in a proper state of presentation. Signs which are abandoned shall be removed within 30 days following abandonment.

B. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any traffic sign, signal or device or is a hazard to traffic.

C. If any nonconforming sign is damaged exceeding two-thirds of its replacement value, it shall not be rebuilt; provided, however, nothing herein contained shall prevent maintenance of nonconforming signs.

D. No sign shall be placed upon or extended over a dedicated street right-of-way except as provided in subsection (A) of this section.

E. No sign shall be constructed which resembles any official marker erected by the City or State or other governmental agency or which by reason of position, shape or color would conflict with the proper functioning of any traffic sign or signal.

F. All signs shall be constructed in accordance with all applicable requirements of the City's Building and Electrical Codes.

G. No sign or any part thereof shall be located on any property without the consent of the owner, holder, lessee, agent or trustee.

H. No sign, post, awning post, billboard advertisement, or mercantile display shall be permitted upon any street or sidewalk; provided, signs may be erected, and fastened to buildings at least 8 feet above the sidewalks and may extend over the dedicated street or highway right-of-way provided that such signs are located at least 3 feet behind the nearest curb abutting the traveled street surface. Electrical illuminated signs must be fastened to the building at least 12 feet above the sidewalks.

(Am. by Ord. Nos. 1105, 7/7/82; 1250, 5/3/89)

SECTION 10-1217: SETBACK REQUIREMENTS

Notwithstanding any other setback requirement of this chapter, in no case shall a building or other structure be hereafter erected or structurally altered nearer than 25 feet from the closest edge of the U. S. Highway No. 20 state right-of-way along Fourth Street (U. S. Highway 20). (Am. by Ord. Nos. 1057, 4/2/80; 1105, 7/7/82)

SECTION 10-1218: STANDING VEHICLE DESIGN

No filling station, service station, or other business establishment shall be located in such a way that vehicles being served by such establishment will be required to stand on any public highway right-of-way. (Ord. No. 1250, 5/3/89)

SECTION 10-1219: PUBLIC HIGHWAY ENTRANCES

No entrance from private property to the public right-of-way along any state or federal highway within the primary highway system shall be constructed, enlarged, or altered unless the owner of such property or other person performing such construction, enlargement, or alteration shall have received the prior approval of the director-state engineer of the Department of Roads or his/her authorized representative. (Ord. No. 1250, 5/3/89)

SECTION 10-1220: MOBILE HOME PARK DESIGN STANDARDS

Mobile home parks shall only be allowed in the R-3 Zoning District under the following conditions:

A. Individual mobile home lots shall have an area of not less than 4,000 square feet per single wide mobile home and 6,000 square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed six.

B. Mobile homes shall be situated on individual lots so there will be a minimum of 15 feet between mobile homes and that each mobile home will be set back at least 15 feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than 10 feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar mobile home park needs.

C. The mobile home park shall have direct access to a public street or highway by a right-of-way at least 50 feet in width and a minimum length of 100 feet to permit the easy entrance and exit from the mobile home park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall provide a minimum clear width of 20 feet paved with a suitable dustless material.

D. Walkways not less than 4 feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard-surfaced and lighted at night with a minimum illumination of 25 watt lamps spaced at intervals of not more than 100 feet.

E. Two off-street parking spaces for each mobile home space shall be provid-

ed at each mobile home space or in group parking. Each off-street parking space shall be at least 300 square feet.

F. The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, or overturning. The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the superstructure.

G. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" minimum) placed on solid uniform soil with at least two standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4 inch concrete cap covering the two concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such blocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than 10 feet apart and not more than 5 feet from the ends of the unit.

H. The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designated to resist the action of frost in the same manner as the foundation system.

I. Skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.

J. Wherever a mobile home park is permitted by this ordinance to be created through the granting of conditional uses or otherwise, said mobile home park may be designed to permit the sale of the individual mobile home lots within said park. A proposed mobile home park in which the individual mobile home lots will be offered for sale must meet all of the following requirements:

1. The individual mobile home lots shall, for the district within which such mobile home park is located, meet the minimum lot requirements, minimum yard requirements, maximum lot coverage, and maximum height requirements of such districts.

2. Each such mobile home lot shall be individually serviced with all utilities and shall be individually metered for all utilities and treated in all respects by the City as a separate user of utilities.
3. The developer of such mobile home park shall be required to secure a preliminary and final plat as per the subdivision process outlined in the City of Ainsworth Subdivision Regulations.
4. At the time of an application for a special use permit or at the time of the application for subdivision in a mobile home park where the lots are to be offered for sale, the developer shall submit all legal documents necessary for the creation of an association having the purpose of maintaining, controlling, and covering all expenses, taxes and costs incurred on common areas within the mobile home park. Such association shall require that all property owners within the mobile home park be members thereof and pledge the lots owned within the mobile home park as security for the association performing such obligations. Covenants shall be placed on the property by the developer and owners thereof so as to ensure this obligation. These documents shall be submitted by the proper officials to the City Council for its approval and no subdivision permit or special use permit may be issued without the approval of these documents by the City Council.

(Ord. No. 1495, 2/13/08)

Article 13 – Zoning Regulations; Nonconforming Uses

SECTION 10-1301: INTENT

A. Within the districts established by this ordinance or amendments that may later be adopted there exist: (A) lots, (B) structures, (C) uses of land and structures, and (D) characteristics of use, which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit those nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that nonconformities 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.

B. Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of the land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

C. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to actual construction, provided that work shall be carried on diligently.

SECTION 10-1302: NONCONFORMING LOTS OF RECORD

A. In any district in which single-family dwellings are permitted, 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, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. 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, yard dimensions and other requirements of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

SECTION 10-1303: NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY)

Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful; provided:

A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

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

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

D. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.
(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1304: NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity.

B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at

time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1305: NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION

If lawful use involving individual structures with a replacement cost of \$1,000.00 or more or of structure and premises in combination exists at the effective date of adoption or amendment of this ordinance, which use would not be allowed in the district under the terms of this ordinance, the said use may be continued so long as it remains otherwise lawful, subject to the following provisions:

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

B. Any nonconforming use may be extended throughout any parts of a building, which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Planning Commission, 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 Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.

D. 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 and the nonconforming use may not thereafter be resumed.

E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconform-

ing status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50% of the replacement cost at time of destruction. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1306: REPAIRS AND MAINTENANCE

A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

C. 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. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1307: USES UNDER CONDITIONAL USE/SPECIAL EXCEPTION

Any use which is permitted as a conditional use or special exception in a district under the terms of this ordinance shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use. (Am. by Ord. No. 1105, 7/7/82)

Article 14 – Zoning Regulations; Off-Street Parking and Loading

SECTION 10-1401: OFF-STREET PARKING REQUIREMENTS

At the time of erection of a structure or building or at the time of enlargement or change in use of a structure, building or land, off-street parking spaces shall be provided and maintained for all uses as follows:

Use	Area or Parking Spaces
Dwellings and mobile homes	Two spaces per dwelling unit
Multiple-family dwellings	Two spaces per dwelling unit or apartment
Bowling alleys	Five spaces per each alley
Hotels and motels	One space for each guest room
Hospitals, nursing homes and sanitariums	One space for each two beds
Places of public assembly (auditoriums) such as churches, theaters, community buildings, etc.	One space for each four seats in main assembly unit
Offices	One space for each 600 sq. ft. of floor area
Retail sales and service uses such as stores, clinics, taverns, eating establishments, banks, drive-ins, etc.	One space per 250 sq. ft. of gross floor area
Elementary or junior high Schools	20% of student capacity
High schools	40% of student capacity
Manufacturing, wholesale, warehouses, industrial	One space for each three employees on the maximum working shift

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1402: OFF-STREET LOADING REQUIREMENTS

At the time of erection of a structure of building or at the time of enlargement of a structure or building having gross floor area of 10,000 square feet or more, off-street loading berths shall be provided and maintained for all uses as follows:

Gross Floor Area	Number of Berths
10, 000 sq. ft.	1 (250 sq. ft.)
More than 10, 000 sq. ft.	1 (250 sq. ft.) for the first 10,000 and 1 berth for each additional 10,000

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1403: INTERPRETATION

A. In the case of any building, structure or land, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar shall apply.

B. In the event several uses occupy a single building or parcel of land, the total requirement for off-street parking shall be the sum of the requirements of the several uses computed separately.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1404: APPLICATION

The requirement to provide the off-street parking areas contained in this article shall apply to new structures constructed after the effective date of this ordinance and to additions to existing conforming structures. In the case of additions, parking shall be required only for the new floor area added to the existing structure according to the requirements of this article. The provisions of this article shall not apply to the area known as the General Commercial District, which is described as areas zoned as a C-2 Business District. (Am. by Ord. No. 1105, 7/7/82)

Article 15 – Zoning Regulations; Planned Unit Development

SECTION 10-1501: DESIGNATION

The owner or owners of any tract of land comprising an area of not less than three acres located in any zoning district may submit a plan for the total development of the area in accordance with the following standards and requirements as a planned unit development, which is defined as a complex designed as a unit to produce an environment of stable, desirable character not out of harmony with its surrounding area and which meets standards of density, open space, light and air, pedestrian and vehicle access, and traffic circulation similar to the requirements of this ordinance for the district in which it is located. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1502: PURPOSES

Some specific purposes of planned development procedures are:

A. Residential Planned Development. To offer recreational opportunities close to home, to enhance the appearance of neighborhoods by the conservation of streams and local spots of natural beauty, to add to the sense of spaciousness through the preservation of natural green spaces, to counteract the effects of urban monotony and congestion in the streets, to encourage cooperative relationships between neighbors and participation by all age groups in the use and care of local open space tracts in new residential subdivisions, to promote harmonious architecture between adjacent dwellings or institutional buildings and to encourage the placement of structures in proper relationship to the natural characteristics of the site.

B. Business Planned Development. To promote the cooperative development of business centers each with adequate off-street parking, to control access points on thoroughfares, to separate pedestrian and automobile traffic, to aid in stabilizing property values, to develop centers of size and location compatible with the market potential, to buffer adjacent residential areas with landscaped green spaces and to encourage harmonious architecture between adjacent commercial structures and between homes and commercial structures.

C. Industrial Planned Development. To promote the establishment of industrial parks, to permit groups of industrial buildings with integrated design and a coordinated physical plan, to encourage recreational facilities within industrial areas and to buffer adjacent residential areas with landscaped green spaces.

SECTION 10-1503: REQUIRED INFORMATION

The developer shall be required to submit the following information and any other information that may be required by the Planning Commission:

A. A site plan indicating the arrangement and tentative location of buildings, uses permitted, land to be preserved as permanent common open space, parking and loading spaces, and other special features of the development plan.

B. A draft of the proposed protective covenants whereby the owner proposes to regulate land use and otherwise protect the proposed development.

C. A draft of any proposed incorporation agreement and a draft of any bylaws or easement declarations concerning maintenance of recreational and other common facilities.

D. Data on the market potential necessary to support the location of the site and the size of uses in any planned development.

SECTION 10-1504: USE EXCEPTIONS

The Planning Commission may authorize that in part of the area of such development there be specified uses not permitted by the use regulations of the district in which said development is located; provided, the Planning Commission shall find:

A. That the uses permitted by such exception is necessary or desirable and is appropriate with respect to the primary purpose of the development;

B. That the uses permitted by such exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood; and

C. That not more than 20% of the ground area or of the gross floor area of such development shall be devoted to the uses permitted by said exception.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1505: DENSITY REGULATIONS

In the case of any planned development, the Planning Commission may authorize exceptions to the applicable density regulations of this ordinance within the boundaries of such development, providing that the Commission shall find:

A. That such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development as well as the neighboring property than would be obtained under the bulk regulations of this ordinance for buildings developed on separate zoning lots;

B. That along the periphery of such planned developments, yards shall be provided as required by the regulations of the district in which said development is located; and

C. That in a residential planned development the maximum number of dwelling

units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the district in which the area is located and increasing the resulting figure by 15%. Net development area shall be determined by subtracting the area set aside for nonresidential uses from the gross development area and deducting 10% of the remainder for streets regardless of the amount of land actually required for streets. The area of land set aside for common open space or recreational use may be included in determining the number of dwelling units permitted.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1506: DESIGNATION OF PERMANENT COMMON OPEN SPACE

A. *Definition.* "Permanent common open space" shall be defined as parks, playgrounds, parkway medians, landscaped green space, schools, community centers or other similar areas in public ownership or covered by an open space easement.

B. *Designation.* No plan for a planned development shall be approved unless such plan provides for permanent open space equivalent to 20% of the total area in residential planned developments, unless it shall be determined that adequate facilities are within a reasonable distance.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1507: MINIMUM LOT AREA IN RESIDENTIAL PLANNED DEVELOPMENTS

Provided the overall number of dwelling units per acre (density) is not increased beyond the provisions of paragraph (C) of Section 10-1505 above, and provided that the permanent common open space as is in accord with Section 10-1506, the planned development may include minimum lot areas per dwelling unit which are less than required in the applicable zoning district. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1506: BUILDING PERMITS

No building permit shall be issued for any construction or use of a development which does not conform to the approved plans, terms and conditions of the planned unit development. No changes shall be made in the planned unit development except by approval in the same procedure by which the original plan was approved. No planned unit development shall be approved until a public hearing is held in accordance with this ordinance. (Am. by Ord. No. 1105, 7/7/82)

Article 16 – Zoning Regulations; Administration and Enforcement

SECTION 10-1601: ZONING ADMINISTRATOR; ENFORCEMENT

A. The zoning administrator shall administer this chapter. The zoning administrator, or his designee, shall have authority to inspect buildings within the City or areas subject to its zoning jurisdiction, together with the sites of any construction for which building permits are required hereunder, at reasonable times and intervals to determine whether this chapter is being violated.

B. If the zoning administrator shall find that any of the provisions of this chapter are being violated, he/she shall notify in writing the persons responsible for such violations and the city clerk indicating the nature of the violation and ordering the action necessary to correct it. The zoning administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Am. by Ord. Nos. 1046, 11/7/79; 1105, 7/7/82)

SECTION 10-1602: BUILDING PERMITS; REQUIRED

No building, other structure, fence, or sign, except a sign fastened to a building, whether above, on, or under the ground or any combination thereof, shall be erected, constructed, installed, moved to, added to, enlarged, reduced, or structurally altered, either within the corporate city limits or within its zoning jurisdiction, without a permit issued by the city clerk except in conformity with the provisions of this chapter. (Am. by Ord. Nos. 1033, 5/16/79; 1046, 11/7/79; 1105, 7/7/82, 1277, 7/9/90)

SECTION 10-1603: BUILDING PERMITS; APPLICATION; REQUIREMENTS

All applications for building permits shall be accompanied by building plans drawn to scale; showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the zoning administrator, including any existing or proposed building or alteration; existing proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter. (Am. by Ord. Nos. 1033, 5/16/79; 1046, 11/7/79; 1075, 2/4/81; 1105, 7/7/82)

SECTION 10-1604: BUILDING PERMITS; APPLICATION; PROCEDURE

When the city clerk receives a building permit application, said application will be

forwarded to the zoning administrator to check for compliance with this chapter. If the permit application does not contain the information required by Section 10-1603, then the permit application shall be returned to the applicant with a list of the additional information required to furnish a complete application. If the permit application complies, the zoning administrator will issue to the city clerk a certificate of zoning compliance and deliver such certificate to the city clerk. Thereafter, the city clerk will issue the building permit the next working day after the receipt of the certificate of zoning compliance. The clerk shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person. The fee for issuance of a building permit including inspection fees shall be based upon square footage. Fees are posted in the city clerk's office. (Ord. Nos. 1105, 7/7/82; 1386; 12/10/96)

SECTION 10-1605: BUILDING PERMITS; APPLICATION; PROCEDURE UPON DENIAL OF CERTIFICATE

In the event that the zoning administrator determines the erecting of the building pursuant to the application would be contrary to the regulations of this chapter or require the granting of a conditional use/special exception or variance, the zoning administrator shall file a written objection with the city clerk in his/her official capacity to the granting of the permit. Such objection shall be filed not later than ten business days from the receipt of the application by the city clerk. Such application and objection shall thereafter be automatically referred to the Planning Commission or Board of Adjustment, as appropriate, for hearing at its next meeting consistent with required notices. The Board of Adjustment, in the case of a variance, or the Planning Commission, in the case of conditional use/special exception, shall, after hearing evidence, determine whether the erecting or altering of the building pursuant to the application for the permit would be consistent with or contrary to the standards and procedures for granting a conditional use/special exception or variance, as the case may be. The Board of Adjustment or Planning Commission shall thereafter report its findings and decision in writing to the city clerk, who shall thereafter forthwith issue or deny said building permit in accordance with such decision and shall notify the applicant in writing of such action. (Ord. No. 1105, 7/7/82)

SECTION 10-1606: BUILDING PERMITS: APPLICATION; APPEAL

Upon the denial of an application for a building permit by the city clerk, the applicant for such building permit shall have a period of 20 days to appeal the denial and the determinations upon which such denial are based to the Board of Adjustment by filing a notice of appeal in writing with the city clerk. Upon receipt of such notice of appeal, the city clerk shall forward all papers constituting such appeal to the Board of Adjustment for hearing at its next meeting consistent with required notices. (Ord. No. 1105, 7/7/82)

SECTION 10-1607: TEMPORARY CERTIFICATE OF ZONING COMPLIANCE

A temporary certificate of zoning compliance may be issued by the zoning administrator not exceeding six months during alterations of or partial occupancy of a build-

ing pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public. (Am. by Ord. Nos. 1046, 11/7/79; 1105, 7/7/82)

SECTION 10-1608: EXPIRATION OF BUILDING PERMIT

If the work described in any building permit has not begun within 90 days from the date of issuance thereof or if the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the city clerk and written notice thereof shall be given to the persons affected, together with notice that any work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained; provided, however, such times for commencement or completion may be extended by the Planning Commission prior to the expiration of such time periods; and provided further, no building or other structure in the City shall be allowed to remain in an unfinished condition for a period of over six months nor shall any building or other structure in the City to be allowed to remain in an unsafe, damaged or demolished condition for a period of more than 60 days. (Am. by Ord. Nos. 1046, 11/7/79; 1105, 7/7/82)

SECTION 10-1609: CONSTRUCTION IN ACCORDANCE WITH PLANS, APPLICATION, CERTIFICATE AND PERMIT

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other uses, arrangements, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this section and punishable as hereinafter provided. (Am. by Ord. Nos. 1046, 11/7/79; 1105, 7/7/82)

SECTION 10-1610: CONDITIONAL USE/SPECIAL EXCEPTION; NECESSARY FINDINGS

The Planning Commission, in order to grant a conditional use or special exception relating to the use of any property, must find and determine the existence of all of the following facts and conditions:

A. It is in harmony with and does not offend the intent and purpose of the Zoning Regulations chapter;

B. It conforms to the Comprehensive Plan;

C. It does not alter the essential character of the neighborhood; and

D. It will not be contrary to or substantially detrimental to the public safety, good, welfare, or interest.

(Ord. Nos. 1033, 5/16/79; 1105, 7/7/82)

SECTION 10-1611: VARIANCE; NECESSARY FINDINGS

The Board of Adjustment, in order to grant a variance relating to lot area, coverage or setback requirements or height requirements, must find and determine the existence of either of the following facts and conditions:

A. Peculiar and exceptional practical difficulties to the owner of the property;
or

B. Exceptional and undue hardships to the owner of the property, and all of the following:

1. The strict application of the Zoning Regulations would produce undue hardship, which has not been brought about by the applicant;
2. The hardship is not shared generally by other properties in the same zoning district and same vicinity;
3. The authorization of such variance will not be a substantial detriment to adjacent property and the granting of the variance will not change the character of the district;
4. The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variances for purposes of convenience, profit or caprice; and
5. The granting of the variance is not of so general or recurring nature as to make reasonably practicable the formation of a general regulation to be adopted as an amendment to the Zoning Regulations.

(Ord. Nos. 1033, 5/16/79; 1105, 7/7/82)

SECTION 10-1612: NOTICE REQUIREMENTS

Public notice of the receipt of an application for building permit, issuance of a certificate of zoning compliance and issuance of a building permit pursuant to section 10-1604 shall not be required. Notice of proceedings pursuant to sections 10-1605 and 10-1606 shall be required as follows:

A. Notice of the time, place and purpose of the hearing upon an application requiring a conditional use/special exception or variance or an appeal from the denial of an application for a building permit shall be published in a newspaper in general circulation in said City not less than five days prior to the date of such hearing.

B. The city clerk shall give by certified mail at least five days prior written notice of the time, place and purpose of such hearing to the applicant, which may be waived by the applicant.

C. Such other notice may be given to any other persons or adjacent landowners as deemed necessary by the Planning Commission or Board of Adjustment.

(Ord. Nos. 1033, 5/16/79; 1105, 7/7/82)

Article 17 – Zoning Regulations; Amendments and Schedule of Fees

SECTION 10-1701: AMENDMENTS

A. These regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of 20% or more either of the area of the lots included in such proposed changes or of those immediately adjacent on the side and in the rear thereof extending 300 feet therefrom and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of the City Council. The Council shall request and receive the advice of the Planning Commission before taking definite action on any contemplated amendment, supplement, change, modification, or repeal. 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 hearing shall be given by publication thereof in a paper of general circulation in the City at least one time ten days prior to such hearing.

B. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten days prior to such hearing. At the option of the City Council, in place of the posted notice provided above the owners or occupants of the real estate to be zoned or re-zoned and all owners of real estate abutting the real estate or directly across any street, alley, or public way from the real estate to be zoned or re-zoned may be personally served with a written notice thereof at least ten days prior to the date of the hearing, if they can be served with such notice within Brown County. Where such notice cannot be served personally upon such owners or occupants in the county, a written notice of hearing shall be mailed to such owners or occupants addressed to their last known addresses at least ten days prior to such hearing.

C. The provisions of this section in reference to notice shall not apply in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of existing zoning district in the Ainsworth zoning jurisdiction, or in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City but only the requirements of Subsection (A) above shall be applicable.

(Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1702: SCHEDULE OF FEES, CHARGES AND EXPENSES

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the city clerk and may be altered or amended only by the Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. (Am. by Ord. Nos. 1046, 11/7/79; 1105, 7/7/82)

SECTION 10-1703: VIOLATIONS AND PENALTY

A violation of this chapter or any regulation herein is hereby declared to be a misdemeanor and, upon conviction, the penalty for such violation shall be any sum not exceeding \$100.00 for any one offense, recoverable with costs together with judgment of imprisonment until the amount of said fine and costs shall be paid. 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 said sections or of any ordinance or other regulation made under authority conferred hereby, the City Council or the proper local authorities of the City, in addition to other remedies, 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. (Am. by Ord. No. 1105, 7/7/82)

SECTION 10-1704: VALIDITY

Should any part of this chapter for any reason be held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this chapter. All regulations or parts of regulations passed and approved prior to the passage and approval of this chapter and in conflict therewith are hereby repealed. (Am. by Ord. No. 1105, 7/7/82)

[Editor's Note: The Subdivision Regulations were passed and approved along with adoption of the Municipal Code of 1977 (Ord. No. 600, 9/9/73).
The Subdivision Regulations were amended by Hanna:Keelan Associates and adopted by Ord. No. 1495, 2/13/08, pursuant to the amendments approved by public hearings of both the Planning Commission and City Council.]

Article 18 – Subdivision Regulations; Title and Purpose

SECTION 10-1801: TITLE

This title shall be known, referred to and cited as the "Land Subdivision Ordinance" of the City of Ainsworth.

SECTION 10-1802: PURPOSE

The purpose of this ordinance is to provide for the harmonious development of the City and its environs; to prescribe standards for the laying out of subdivisions in harmony with the comprehensive plan; for the coordination of streets and utilities within subdivisions with other features of the comprehensive plan so as to create conditions favorable to health, safety, convenience or prosperity, all in accordance with applicable state statutes.

Article 19 – Subdivision Regulations; Definitions

SECTION 10-1901: DEFINITIONS

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this article shall govern the construction, meaning, and application of words and phrases used in this chapter. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it or from which it is derivative, as the case may be. All words in the singular shall include the plural and those in the plural shall include the singular. Each gender shall include the other. Each tense shall include the other tenses.

"Alley" shall mean a public way not designed for general travel or to allow through vehicular traffic, used as a secondary access to the rear or side of lots, which shall in no way be a street.

"Block" shall mean a tract or parcel of land bounded by public streets or lands, streams, railroads, unplotted lands, or a combination thereof.

"City" shall mean the City of Ainsworth, Nebraska.

"Council" shall mean the Ainsworth City Council.

"Clerk" shall mean the city clerk of the City of Ainsworth.

"Code" shall mean the Ainsworth municipal code.

"Commission" shall mean the City of Ainsworth Planning Commission.

"Community waste water system" shall mean any system, whether publicly or privately owned, serving two or more individual lots for the collection and disposal of sewage or industrial wastes of a liquid nature, including various devices for the treatment of such sewage or industrial wastes.

"Community water system" shall mean any system, including various devices to supply the water, whether publicly or privately owned, serving two or more individual lots, supplying an adequate amount of potable water to the occupant of the lot or lots.

"Comprehensive Plan" shall mean the general plan and zoning map for the improvement and development of the City adopted as required by the applicable state statutes.

"Cul-de-sac" shall mean a local street, which terminates in a permanent turnaround and which by design is not intended to continue beyond its terminal point.

"District" shall mean the section of the zoning jurisdiction for which uniform regula-

tions governing the use, height, area, size and intensity of the use of buildings, land, and open space about which buildings are established.

"Engineer" shall mean any person who is designated by the City to approve portions of proposed subdivisions as specified in these regulations as requiring an engineer's approval.

"Floodplain" shall mean those lands within the zoning jurisdiction of the City which have been or may hereafter be covered by floodwater as designated by the U.S. Army Corps of Engineers or other federal or state agencies empowered by federal or state laws to designate such areas.

"Frontage" shall mean that portion of a parcel of property which abuts a public street.

"Individual sewage system" shall mean a sewage disposal system, other than a public or community system, which receives either human excreta, liquid waste, or both from one or more individual lots. Included within the scope of this definition are sewage stabilization ponds, septic tank soil absorption systems, and chemical-type systems similar in nature to those specified herein.

"Individual water well system" shall mean a water system, including various devices to supply the water, other than a public or community water system, which supplies adequate potable water to one lot only.

"Lot" shall mean a portion of real property containing not less area than required by the zoning district in which it is or was located, having a separate and distinct number or other designation shown on the official plat recorded in the office of the county clerk of Brown County.

"Monuments" shall mean permanent concrete or metal markers used to establish definitely all lot corners, boundary line corners and points of change in street alignment in the survey plat of a subdivision.

"Outlot" shall mean a parcel of real property having the same definition as a "lot" as defined hereinbefore, a lot or parcel of land lying outside of the corporate limits of the City but subject to its municipal jurisdiction and control.

"Plat" shall mean a map, drawing, or chart on which the subdivider's plan of the subdivision is presented and which he intends, in final form, to record.

"Sewer Department" shall mean the Sewer Department of the City of Ainsworth.

"Subdivision" shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose of ownership, building development and designation.

"Major street" shall mean a freeway, expressway, and arterial, as adopted by the City consistent with Nebraska law.

"Collector street" shall mean a street that is used or intended to be used to congregate traffic from several local streets and to route such traffic to a major street.

"Dead end street" shall mean a street which is terminated at the boundary line of the subdivision or corporate limits.

"Local street" shall mean any public street that is used or intended to be used for the principal purpose of serving as access to abutting property.

"Water Department" shall mean the Water Department of the City of Ainsworth.

"Zoning administrator" shall mean the representative of the City authorized and empowered to administer the requirements of these Subdivision Regulations.

Article 20 – Subdivision Regulations; General Provisions

SECTION 10-2001: SUBDIVISION PLAT; WHEN REQUIRED

It shall be unlawful for the owner, agent, or person having control of any land within the corporate limits of the City or within the one mile zoning jurisdiction of its corporate limits to subdivide land except in accordance with the Revised Statutes of Nebraska, as amended from time to time, and the provisions of this chapter.

SECTION 10-2002: ADMINISTRATION

The City Council, or its authorized representatives, is hereby empowered to approve subdivisions under the following conditions:

A. Required easements for utilities, drainage, and other improvements are provided for.

B. The City Council or its authorized representatives may require the posting of bonds or an escrow or security agreement to guarantee the installation of required improvements.

C. All topographic and other information requested shall be provided by the subdivider.

D. Where individual water or sewer systems are required, the plans shall be subject to the approval of the Water and Sewer Departments.

E. The subdivider shall provide evidence that all taxes are paid on all property dedicated to public use.

F. The subdivider shall pay all fees for filing the plat.

G. The subdivider shall submit an accurately drawn plat or plan showing the proposed lots and their dimensions. Said plat shall be certified by a registered land surveyor stating that each proposed lot has been accurately surveyed in the proposed subdivision and that each lot corner has been well and accurately staked and marked.

H. The City Council or its authorized representatives shall file said approved plat in the office of the county clerk of Brown County within 15 days from the date it is approved. The subdivider shall pay filing fees in advance.

SECTION 10-2003: PLATTING PROCEDURE

A. *Preliminary Plat Submission.* The subdivider shall submit to the city clerk a

preliminary plat and supplemental material for preliminary review and comments, if any, from the City Council, the Planning Commission, or others who might have an interest in the development before proceeding with a final plat.

B. *Planning Commission Approval or Rejection.* The Planning Commission shall review the preliminary plat and, within 30 days, recommend to the City Council the rejection or conditional approval of the preliminary plat.

C. *Recording of Action by Planning Commission.* The action of the Planning Commission shall be noted in the minutes of the meeting where the action was taken.

D. *Approval is Conditional.* Approval of the preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval of the submitted plat as a guide for the preparation of the final plat.

E. *Final Plat Submission Requirements.* Final plats shall be submitted to the City within six months of the approval of the preliminary plat, unless an extension is granted. The final plat shall generally conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws.

F. *Fees.* The subdivider will pay the filing fees for all plats.

G. *Planning Commission Recommendations.* The Planning Commission shall approve or reject the final plat and prepare a recommendation to the City Council for approval or rejection. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or the City Council shall be given the subdivider within 80 days after submission of the final plat.

H. *Subdivision within the Floodplain.* There shall be no platting or subdivision of land allowed by the City within the area defined as a floodplain except as provided for in the regulations establishing the floodplain area.

Article 21 – Subdivision Regulations; Final Plat

SECTION 10-2101: FORM

A. The size of each sheet of said final plat shall be 17 inches by 20 inches. All lots and, wherever practicable, blocks, shall be shown on one sheet in their entirety.

B. Said final plat shall be accurately, clearly and legibly drawn in black, waterproof India ink or photographed upon good tracing cloth or Mylar; and affidavits, certificates, and acknowledgments shall be legibly lettered or printed upon the final plat with opaque ink. All signatures shall be in black opaque ink.

C. A marginal line shall be drawn around each sheet, leaving a blank margin of one-half inch.

D. The scale of the final plat shall be in one of the following dimensions only:

1 inch equals 20 feet
1 inch equals 30 feet
1 inch equals 40 feet
1 inch equals 50 feet
1 inch equals 60 feet
1 inch equals 100 feet
1 inch equals 200 feet
1 inch equals 400 feet

The scale selected shall be sufficient to show all details clearly, using as many sheets as required to accomplish this end.

E. If more than one sheet is used, the particular number of the sheet and the total number of sheets comprising the total for the final plat shall be stated on each sheet. An index sheet at whatever scale necessary to conform to sheet size may be required.

F. The boundary of the subdivision shall be indicated by a dotted line drawn on the final plat. All lines shown on the final plat which do not constitute a part of the subdivision itself shall be clearly distinguishable from those lines that are a part of the subdivision.

SECTION 10-2102: CERTIFICATES AND ACKNOWLEDGMENTS

The final plat shall show the following certificates and acknowledgments:

A. Owner's acknowledgment and dedication, if any.

B. Certificate of surveyor.

C. Certificate of approval of Planning Commission.

D. Certificate of city clerk showing approval by the City Council and acceptance of dedication.

E. All affidavits, certificates, acknowledgments, endorsements and notaries' seals as are required by law and the provision of this chapter.

SECTION 10-2103: DATA REQUIRED

A. The final plat will show all survey and mathematical information and any data necessary to locate all monuments, and locate or retrace any and all interior and exterior boundary lines appearing thereon, including overall dimensions on the final plat shall be to the nearest one-hundredth (.01) of a foot. The final plat shall contain the following information:

1. Location, names, and widths of all proposed streets, highways, and other public ways in the subdivision to be offered for dedication to the public.
2. Location and widths of all proposed easements for drainage, sewage and other utilities.
3. Number and dimensions of all lots and blocks.
4. Proposed public area for parks and playgrounds.
5. Lot numbers, which shall begin with the number "one" and shall continue consecutively through the block with no omissions or duplications and no block designations duplicated. Letters shall be used to designate outlots.
6. The location and dimensions of all lot lines and boundary lines of any parcels other than streets, which are to be dedicated or reserved for public use shall be shown and said parcels shall be designated as outlots and assigned an alphabetical description.
7. Sufficient linear, angular, and curve data shall be shown to determine the bearing and length of boundary lines of the subdivision, and the boundary lines of every block, lot, and parcel which is a part thereof and the curve data of all horizontal street curves.
8. Where the land being subdivided abuts on an existing plat, the existing plat, the distances, and bearing of any common lines shall be shown and any differences in measurements noted.

9. Where lot corners are rounded at street intersections, the length of tangents shall be shown.
10. Where lot lines abut curvilinear streets, chord distances shall be shown for lot lines abutting said streets.
11. All lot lines shall be clearly shown.
12. Building setback distances shall not be less than those adopted in the zoning ordinance.

B. The following data shall be shown on each sheet of the final plat:

1. The name of the subdivision; the use of "Second," "Third," etc. for additions or subdivisions shall be made in sequence only if the final plat is located adjacent to a plat with the same name;
2. Scale;
3. North arrow;
4. Sheet number and the total number of sheets comprising the final plat.

C. Accompanying the final plat, the following information shall be submitted to the city clerk:

1. Name, address and telephone number of the subdividers;
2. Name(s) and address(es) of record owner(s);
3. Legal description of the proposed subdivision, including acres;
4. Statement of present zoning and use and proposed use or uses of the property.

SECTION 10-2104: SURVEY REQUIREMENTS

A land survey is required to support the final plat. The said plat shall include a certificate signed by a registered land surveyor certifying that he has accurately surveyed the subdivision and attesting to the accuracy of the survey, the correct location of all permanent survey monuments shown and that the lots, blocks, streets, alleys, public ways and grounds are staked and marked with permanent monuments and street stakes as required prior to the approval of the final plat.

SECTION 10-2105: DESIGN STANDARDS

The general requirements and minimum standards of design and development set forth in this article are hereby adopted as the minimum requirements and standards to which a subdivision and plat thereof must conform prior to approval.

SECTION 10-2106: CONFORMITY TO COMPREHENSIVE PLAN AND ZONING REGULATIONS

The subdivision shall conform to and be in harmony with the Comprehensive Plan and the Zoning Regulations.

SECTION 10-2107: RELATION TO ADJOINING STREET SYSTEM

The streets in a subdivision shall be aligned with existing streets in the adjoining subdivision. Where there are no adjoining subdivisions, the subdivider shall provide for projection of streets from the subdivision into future adjoining subdivisions.

SECTION 10-2108: STREET WIDTHS

A. The width of all street rights-of-way shall conform to the widths prescribed herein and shall be determined pursuant to the Comprehensive Plan.

B. The minimum right-of-way widths for streets, alleys and pedestrian ways shall be as follows: (see chart)

Classification	Width
Arterials	80 feet
Collectors	70 feet
Locals	60 feet
Cul-de-sacs	50 feet (radius)
Alleys	20 feet
Pedestrian ways	10 feet

SECTION 10-2109: STREET LOCATION

The location of major streets and alleys shall be such as to provide convenient access to adjoining property.

SECTION 10-2110: STREET OFFSETS

"T" intersections shall be offset a minimum of 100 feet centerline to centerline, except that under certain conditions the City may grant an exception.

SECTION 10-2111: ADMINISTRATIVE SUBDIVISION

In the event that a proposed subdivision does not involve the platting and dedication of streets, extension of utility systems, change in subdivision class and type, change in zoning district, change in surface drainage, and will not result in the creation of more than three lots of record, the subdivider may apply for Administrative Subdivision under the provisions of this section. The utilization of the Administrative Subdivision does not relieve the subdivider of his/its obligation to comply with Article 22 (Platting Information) and Article 23 (Required Improvements) of the Subdivision Regulations. The necessity of establishing and dedicating easements for utilities shall not bar the utilization of the Administrative Subdivision. An application for subdivision may be approved under the following procedure:

A. The applicant shall submit an application on a form established by the zoning administrator/building inspector. The application shall be accompanied by a plat of all lots and parcels that are affected by the action prepared by a licensed surveyor showing the previous and proposed new boundaries; provided, a plat prepared by a licensed surveyor shall not be required wherein a portion of one platted lot is added to a portion or all of an adjacent lot or where one platted lot is divided into two parts. The plat shall contain the following:

1. Date, title, name, and location of the subdivision.
2. Names and locations of abutting streets and lots identifying street names and lot and block numbers.
3. Identification of the new lot and block numbers and setback lines.
4. Graphic scale and true north point.
5. Monuments.
6. Dimensions, angles and bearings and complete legal description of the property.
7. Sufficient engineering data to reproduce any line on the ground.
8. Location, dimensions, and purposes of any existing easements and structures.
9. Certification by surveyor or engineer certifying to the accuracy of the survey and plat.
10. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.

B. If a plat is not required under this section, a plot plan shall be submitted with the application and shall contain the following:

1. Names and locations of abutting streets and lots identifying street names and lot and block numbers.
2. Identification of the new lot and block numbers and setback lines.
3. Graphic scale and true north point.
4. Monuments.
5. Dimensions, angles and bearings and complete legal description of the property.
6. Location, dimensions and purposes of any existing easements and structures.

C. The city clerk shall collect a fee and notify the zoning administrator/building inspector of receipt, the amount of which shall be established by a fee schedule approved by the City Council or by its authorized representative by resolution.

D. Following the submission of the application, the zoning administrator/building inspector shall review each application according to the following criteria:

1. Compliance with the Zoning and Subdivision Regulations and the conditions set forth above.
2. Consistency with the Comprehensive Plan of the City of Ainsworth.
3. Potential adverse environmental effects on neighboring properties.
4. Following such review, the zoning administrator/building inspector shall refer the application to the City Council for approval. If any party rejects the Administrative Subdivision, approval of such subdivision is denied. Approval shall be denoted by a signed certificate of approval which must be filed along the plat or plot plan with the register of deeds of Brown County.

E. In the case of a denial, the proposed subdivision may proceed through the appropriate review and action for a typical subdivision approval process.

F. Following approval of the Administrative Subdivision, the subdivider must file the plat or plot plan and certificate of approval with the register of deeds of Brown County. If the certificate of approval and the approved plat or plot plan are not filed

with that office within 90 days of approval, such approval shall be null and void.

G. The building official shall keep a complete and accurate record of all Administrative Subdivision approvals.

Article 22 – Subdivision Regulations; Platting Information

SECTION 10-2201: ALLEYS

Alleys shall be provided in a residential block if, in the opinion of the City, they are needed to facilitate garbage collection or fire protection.

SECTION 10-2202: STREET NAMES

All public streets shall be named or numbered as follows:

A. Where streets are an extension of existing streets, the existing street name shall be used.

B. All north-south streets shall be named.

C. All east-west streets shall be numbered or named consistent with present designations.

D. All diagonal or curvilinear streets shall be named.

E. The names of cul-de-sacs shall be given the suffix "circle," "court," or "place."

SECTION 10-2203: EASEMENTS

Easements shall be provided and dedicated where necessary for sanitary sewer, storm sewer, water mains, electric lines and other utilities.

SECTION 10-2204: BLOCK SIZES

A. Block lengths shall not exceed 1320 feet.

B. Block widths shall not exceed 420 feet except when they shall conform to adjoining blocks.

C. The lot arrangement and design of the subdivision shall be such that all lots shall provide satisfactory and desirable building sites properly related to topography and the character of the surrounding development.

Article 23 – Subdivision Regulations; Required Improvements

SECTION 10-2301: STREETS

The grading, paving and installation of curbs, gutters, and drainage facilities for all streets, alleys, and other public ways shall be done in accordance with the adopted design standards of the City or as approved by the city engineer.

SECTION 10-2302: SIDEWALKS

Sidewalks shall be constructed as required by the City.

SECTION 10-2303: WATER SUPPLY

All subdivisions within the corporate limits of the City or within the one mile area of zoning jurisdiction shall have a water system constructed in conformance with the applicable design standards of the City. Inside the corporate limits each lot shall be provided with a connection to the city water supply, except as otherwise provided by city ordinance. Outside the corporate limits each lot may be connected to the city water system where the city water supply is reasonably available. Fire hydrants shall be installed in accordance with the requirements of the City.

SECTION 10-2304: SANITARY SEWERS

All subdivisions within the corporate limits of the City or within the designated area of zoning jurisdiction shall have a sanitary sewer system constructed in accordance with the design standards of the City as approved by the city engineer, and individual sewage disposal systems may be permitted if each disposal system is in conformance with the applicable health codes and is approved by the City and the responsible state agencies or departments.

Article 24 – Subdivision Regulations; Variances

SECTION 10-2401: VARIANCES

Whenever a tract of land proposed to be subdivided (A) is less than three acres, (B) does not involve any dedication for street or alley purposes, (C) is of such unusual size, shape or topography or (D) is affected by surrounding development or unusual conditions such that strict application of the requirements contained in this ordinance would result in substantial hardships or inequities, the City Council, upon recommendation of the Planning Commission, may vary or modify such requirements so that the subdivider is allowed to develop his/its property in a reasonable manner; provided, however, the public welfare and interest of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved. In granting variances, the City Council, upon recommendation of the Planning Commission, may require such conditions as will secure substantially the objectives of the standards or requirements so varied. (Am. by Ord. No. 1390, 8/13/97)

Article 25 – Subdivision Regulations; Enforcement, Severability, and Amendments

SECTION 10-2501: ENFORCEMENT

The designated representative of the City responsible for zoning administration shall have the primary responsibility for enforcing this ordinance.

SECTION 10-2502: FINES AND PENALTIES

Any person upon whom the duty is placed by the provisions of this chapter who fails, neglects, or refuses to perform such duty or who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$100.00 and costs of prosecution. Each day that a violation of this chapter continues shall constitute a distinct offense and shall be punishable as such.

SECTION 10-2503: SEVERABILITY

Each section and each subdivision of a section of this chapter is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the passage of this chapter is concerned and the invalidity of any section or subdivision of a section of this chapter shall not invalidate any other section or subdivision of a section thereof.

SECTION 10-2504: AMENDMENTS

Any provision of these regulations from time to time may be amended, supplemented, changed, modified, or repealed by the City Council according to law; provided, however, such amendments, supplements, changes, modifications, or repealed provisions shall not become effective until after study and report by the Planning Commission.

Article 26 – Subdivision Regulations; Application

SECTION 10-2601: SINGLE BUILDING PER LOT

Each separate principal building within the planning jurisdiction of the City shall be situated on a subdivided lot or lots of record unless otherwise provided in the Zoning Regulations for the City of Ainsworth. (Am. by Ord. No. 1034, 5/2/79)

SECTION 10-2602: PLAT REQUIRED

No subdivision of land shall be permitted within the city zoning jurisdiction unless a plat is approved in accordance with provisions of these regulations.

SECTION 10-2603: EXISTING UNDEVELOPED SUBDIVISIONS

These regulations shall apply not only to subdivisions as herein set forth but shall also apply, insofar as payment of costs for improvement of subdivision is concerned, to those subdivisions or parts thereof already platted and approved and which are wholly or partially undeveloped.

SECTION 10-2604: BURIAL LOTS EXCEPTION

These regulations shall not apply to subdivision of burial lots in cemeteries.

Article 27 – Subdivision Regulations; Repeals

SECTION 10-2701: REPEALS OF PRIOR ORDINANCES IN CONFLICT

All ordinances of the City inconsistent herewith to the extent of such inconsistency, and no further, are hereby repealed. The repeal of any of the above-mentioned does not revive any other ordinance or portion thereof repealed by said ordinances. Such repeals shall not affect the prosecution or punishment of any person for the violation of any ordinance repealed hereby, for any offense committed prior to the repeal.