

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING  
OF THE MAYOR AND CITY COUNCIL OF  
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **8<sup>th</sup> day of May, 2013**, in the meeting room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 1<sup>st</sup> day of May, 2013

**AGENDA AS FOLLOWS:**

- |   |                                    |
|---|------------------------------------|
| 1. Roll Call;   | <hr/>                              |
| 2. Pledge of Allegiance;  | Mayor Alan Zavodny                 |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;  | <hr/>                              |
| 4. Minutes of the April 10 <sup>th</sup> , 2013 meeting of the Mayor and City Council;  | Council President Gary L. Kroesing |
| 5. Consideration of Claims;   | <hr/>                              |
| 6. Committee and Officer Reports;   | Council member Michael E. Rogers   |
| 7. Public Hearing to consider the application of Randall Svoboda, DC Distribution, d.b.a. RB's Corner Stop, 405 D Street, for a Class "D" Liquor License;   | <hr/>                              |
| 8. Consideration of the request by Randall Svoboda, DC Distribution, d.b.a. RB's Corner Stop, 405 D Street, for a Class "D" Liquor License;   | Council member Ruddy L. Svoboda    |
| 9. Consideration of the request by Randall Svoboda, DC Distribution, d.b.a. RB's Corner Stop, 405 D Street, for a Class "D" Liquor License;   | <hr/>                              |
| 9. Consideration of the \$250.24 credit given to Brad & Deb Lensch for a street light refund;   | Council member William Scribner    |
| 10. Consideration of Ordinance No. 1187 amending the future land use map to change David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial); (Public Hearing & passed 1 <sup>st</sup> reading on 4-10-13)                           | <hr/>                              |
| 10. Consideration of Ordinance No. 1187 amending the future land use map to change David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial); (Public Hearing & passed 1 <sup>st</sup> reading on 4-10-13)                           | Council member Gary D. Smith       |
| 11. Consideration of Ordinance No. 1188 amending the Official Zoning Map by rezoning the property located at David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial); (Public Hearing & passed 1 <sup>st</sup> reading on 4-10-13) | <hr/>                              |
| 11. Consideration of Ordinance No. 1188 amending the Official Zoning Map by rezoning the property located at David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial); (Public Hearing & passed 1 <sup>st</sup> reading on 4-10-13) | Council member John P. Vandenberg  |
| 11. Consideration of Ordinance No. 1188 amending the Official Zoning Map by rezoning the property located at David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial); (Public Hearing & passed 1 <sup>st</sup> reading on 4-10-13) | <hr/>                              |
| 11. Consideration of Ordinance No. 1188 amending the Official Zoning Map by rezoning the property located at David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial); (Public Hearing & passed 1 <sup>st</sup> reading on 4-10-13) | City Clerk Joan E. Kovar           |

12. Consideration of Ordinance No. 1189 (passed on 1<sup>st</sup> reading only 4-10-13) amending Zoning Ordinance #1060 by changing
  - a. Article 2; Section 2.02 Definitions by adding Cover Crop;
  - b. Section 2.02 Definitions by Eliminating the Numbering of the definitions;
  - c. Section 5.07.03 Single-Family Residential – Conditional Uses to add #6. Cover Crops;
  - d. Section 5.08.03 R-2 Two Family Residential – Conditional Uses to add #8. Cover Crops;
  - e. Section 5.12.03 Downtown Commercial –Conditional Uses to add #22. Commercial Fuel Pumps;
13. Consideration of Ordinance No. 1190 setting the maximum for dogs, cats, or a combination of dogs and cats at three (3) within the city limits of David City; (passed on 1<sup>st</sup> reading only 4-10-13)
14. Consideration of the miscommunication concerning the street assessments along “O” Street from 4<sup>th</sup> to the Burlington Northern Santa Fe Railroad;
15. Consideration of Resolution No. 10 – 2013 combining three 50’ lots to form one 150’ x 140’ lot, East David City, Block 12, as requested by Mike and Pam Siroky;
16. Consideration of Ordinance No. 1191 narrowing “B” Street from the east side of 13<sup>th</sup> Street to the East Side of 14<sup>th</sup> Street to a 66’ wide street;
17. Consideration of grandfathering the evergreen trees on the south side of “B” Street that are currently on the City’s easement;
18. Consideration of the request by Rex Rehmer for KENO funds for the fireworks display during the Butler County Fair;
19. Consideration of the Butler County Parade Committee’s request for approval and appropriate acceptance for the Butler County Parade to cross Highway 15;
20. Consideration of the recommendation by the Planning Commission, that the City hire Dave Ziska, Olsson Associates, to determine why there is so much salt in the effluent water being used on the golf course;
21. Consideration of a memo of understanding between the City of David City and the David City Golf Club concerning a well on the golf course which is City property;
22. Consideration of posting signs that Nebraska Street is not a truck route;
23. Adjournment;

CITY COUNCIL PROCEEDINGS

May 8, 2013

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on May 2<sup>nd</sup>, 2013 and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Council members Bill Scribner, Gary Kroesing, Mike Rogers, John Vandenberg, Ruddy Svoboda, Gary Smith, City Attorney James Egr, and Interim City Clerk Tami Comte. Mayor Alan Zavodny arrived at 7:10 p.m.

Also present were: Jim Vandenberg, Janis Cameron, Steve Maguire, Jeff Ingalls of Frontier Cooperative Inc., Randy Svoboda, Bob Moravec, Rex Rehmer, Galen & Nancy Krenk, Mike Siroky, Toni Hager, Clayton Petersen, Pam Kabourek, Mark & Tina Kirby, Laura Kobza, Jan & Dan Sypal, Nick Sypal, Matt Rief and Jerry Hain of Olsson Associates and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

Council President Gary Kroesing informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the April 10, 2013 meeting of the Mayor and City Council were approved upon a motion by Council member Scribner and seconded by Council member Vandenberg. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council President Kroesing asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims and Council member Rogers seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Scribner, Svoboda, Smith and Kroesing. Voting NAY: None. The motion carried.

Council President Kroesing called for Committee and Officers Reports.

Council member Scribner asked if anyone knew why the fish were dying in the park lakes.

Council President Kroesing stated that the Department of Environmental Quality would have an answer by the end of this week.

Council member Vandenberg made a motion to accept the committee and officers reports as presented. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, Kroesing, Vandenberg and Rogers. Voting NAY: None. The motion carried.

Council President Kroesing declared the public hearing open at 7:04 p.m. to consider the application of Randall Svoboda, DC Distribution, d.b.a. RB's Corner Stop, 405 D Street, for a Class "D" Liquor License.

Council President Kroesing declared the public hearing closed at 7:05 p.m.

Council member Scribner made a motion to approve the application of Randall Svoboda, DC Distribution, d.b.a. RB's Corner Stop, 405 D Street, for a Class "D" Liquor License. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Vandenberg, Svoboda, Kroesing and Scribner. Voting NAY: None. The motion carried.

Council President Kroesing stated that street light refund for Brad & Deb Lensch was covered in March and they wanted it brought back up for reconsideration.

Council member Scribner stated that he still felt that they had no control over it.

Council member Rogers stated that he felt that the Council was fair with the \$250.24 credit that they were given. He also stated that several people have lived in the home since the street light was installed.

Council member Svoboda stated that he thought that the refund was the only fair thing to do.

Council member Vandenberg stated that he felt that it was a disclosure issue from previous owners that should have been passed along as the house was sold.

Council member Svoboda made a motion to approve an electric cost adjustment for Brad and Debra Lensch's street light in the amount of \$250.23 as a credit to their account. Council member Scribner seconded the motion. Voting AYE: Council member Svoboda. Voting NAY: Council members Vandenberg, Kroesing, Rogers and Smith. Council member Scribner abstained from voting. The motion failed.

Mayor Zavodny arrived at 7:10 p.m.

Council member Scribner made a motion to suspend the statutory rule requiring an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1187 on third and final reading. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Rogers, Svoboda and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1187 was passed and adopted on third and final reading as follows:

**ORDINANCE NO. 1187**

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MDR (MEDIUM DENSITY RESIDENTIAL) TO I (INDUSTRIAL), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE

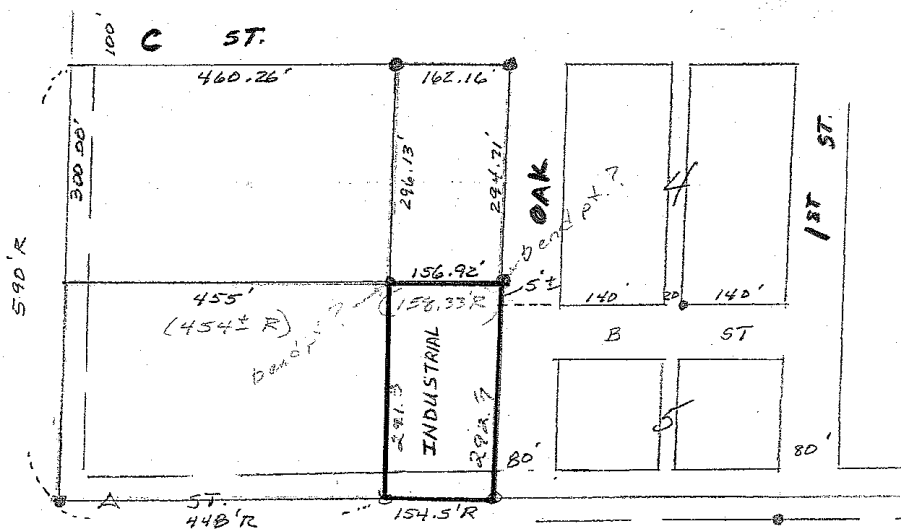
AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

Section 1. That the land use plan be amended as follows:

- a. To amend the following property from MDR (Medium Density Residential) to I (Industrial):

Outlot Five (5), less the north 1.08 acres, located on part of the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Nineteen (19), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, David City, NE



Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted this 8<sup>th</sup> day of May, 2013.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Council member Kroesing introduced Ordinance No. 1188 and made a motion to suspend the statutory rule requiring an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1188 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Rogers, Svoboda and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1188 was passed and adopted on third and final reading as follows:

**ORDINANCE NO. 1188**

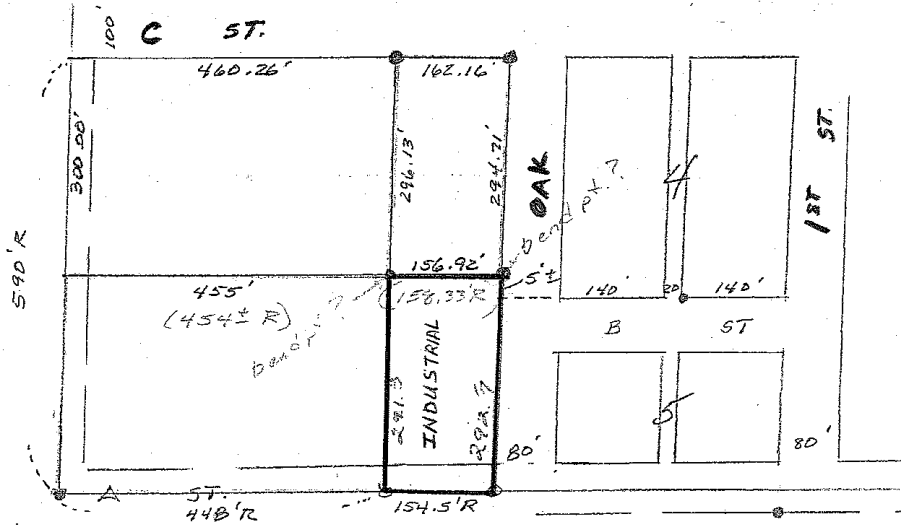
AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM R-2 (TWO FAMILY RESIDENTIAL) TO I-2 (HEAVY INDUSTRIAL), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

Section 1. That the Official Zoning Map be amended as follows:

- a. To amend the following property from R-2 (Two Family Residential) to I-2 (Heavy Industrial):

Outlot Five (5), less the north 1.08 acres, located on part of the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Nineteen (19), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, David City, Nebraska



Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted this 10<sup>th</sup> day of April, 2013.

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 Mayor Alan Zavodny

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 Interim City Clerk Tami L. Comte

Council member Smith introduced Ordinance No. 1189 and made a motion to suspend the statutory rule requiring an Ordinance be read on three separate days. Council member Kroesing seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1189 on third and final reading. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Rogers, Svoboda and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1189 was passed and adopted on third and final reading as follows:

**ORDINANCE NO. 1189**

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING THE FOLLOWING SECTIONS:

- a. Article 2; Section 2.02 Definitions by adding Cover Crop;
- b. Section 2.02 Definitions by Eliminating the Numbering of the definitions;
- f. Section 5.07.03 Single-Family Residential – Conditional Uses to add #6. Cover Crops;
- g. Section 5.08.03 R-2 Two Family Residential – Conditional Uses to add #8. Cover Crops;
- h. Section 5.12.03 Downtown Commercial –Conditional Uses to add #22. Commercial Fuel Pumps;

TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS 2.02, 5.07.03, 5.08.03, AND 5.12 .03, OF ORDINANCE NO. 1060, BE AMENDED AS FOLLOWS:

**ARTICLE 2: DEFINITIONS**

**Section 2.01 Rules** For the purpose of this ordinance the following rules shall apply:

- 2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
- 2.01.03 The word "shall" is mandatory.
- 2.01.04 The word "may" is permissive.
- 2.01.05 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.01.06 The word "commission" shall refer to the Planning Commission of David City, Nebraska.



- 2.01.07 The phrase "Zoning Administrator" shall refer to the Zoning Administrator for David City.
- 2.01.08 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
- 2.01.09 The word "Council" shall mean the City Council of David City, Nebraska.
- 2.01.10 The word "Board" shall mean the Board of Zoning Adjustment of David City, Nebraska.

**Section 2.02 Definitions.**

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

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

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

**ACCESSORY BUILDING** (see Building, accessory)

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

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

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

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

**ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".

**ADULT CABARET** shall mean a nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10 percent of the total presentation time is devoted to the showing of material that is characterized by

any emphasis upon the depiction of specified sexual activities or specified anatomical areas.

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

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

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

**ADULT INTERNET INDUSTRIES** shall mean any business within an enclosed building or outdoors that is producing materials for distribution on the Internet of an adult nature, including live video streaming, tape delayed video broadcasts, live simulcasting, still photographs, audio broadcasts, animated video or hard copy. Said uses are intended for viewing by other parties while on-line and for a specified charge.

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

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

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

**ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the

depiction of description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

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

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

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

**AESTHETIC ZONING** shall mean zoning to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.

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

**AGRICULTURAL OPERATIONS** (see Farming)

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

**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.

**AIRPORT ADVISORY COMMITTEE** (see Airport Zoning Board)

**AIRPORT HAZARD** shall mean any structure, object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off.

**AIRPORT HAZARD ZONE** consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the Approach and Turning Zones.

**AIRPORT ZONING** shall mean the ability of an airport to zone within three miles of the facility as per §3-301 of the Nebraska Revised Statutes. Such overlay zoning shall specify the land uses permitted and regulate and restrict the height to which the structures and trees may be erected or allowed to grow.

**AIRPORT ZONING BOARD** shall mean a board created to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area as per §3-304 of the Nebraska Revised Statutes.

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

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

**ALTERATION, STRUCTURAL** (see Structural alteration)

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

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

**ANIMAL HOSPITAL** (see Hospital, animal)

**ANIMALS, DOMESTIC** (see Household pet)

**ANIMAL UNIT** (see Livestock Feeding Operation)

**ANIMAL, VICIOUS or EXOTIC** shall mean any dangerous dog, any non-farm/non-domestic animal, or wild or exotic animal, including birds and reptiles, that may be considered wild and/or dangerous.

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

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

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

**APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a

single family or group of individuals living together as a single housekeeping unit.  
(Also, see Dwelling Unit)

**APARTMENT HOUSE** (see Dwelling, multiple family)

**APPEARANCE** shall mean the outward aspect visible to the public.

**APPROPRIATE** shall mean sympathetic, or fitting, to the context of the site and the whole community as recommended by the Planning Commission.

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

**ARCHITECTURAL CANOPY SIGN** (see Sign, architectural canopy)

**ARCHITECTURAL CHARACTER** (see Architectural Concept)

**ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development that produces the architectural character.

**ARCHITECTURAL FEATURE** shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.

A. **LINES** shall mean visual elements of the building, either within the façade or on the building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.

B. **MASS** shall pertain to the volume or bulk of a building or structure.

C. **TEXTURE** shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.

**ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.

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

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

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

**ATTRACTIVE** shall mean having qualities that arouse interest and pleasure in the observer.

**AUCTION SALES** shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes motor vehicle wholesale sales, including trailers, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles.

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

**AUTOMOBILE REPAIR SERVICES** shall mean the use of a site for the repair of automobiles, buses, trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, tire sales and installation, wheel and brake shops, and similar repair and service activities, but excludes permanent dismantling or salvage.

**AUTOMOBILE SALES** shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales includes all motor vehicle retail sales and leases including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Also, see Auction Sales)

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

**AWNING** shall mean a structural extension over the exterior of a door or window which provides protection from the sun or rain.

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

**BASEMENT** shall mean the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling. All sleeping rooms in said basement shall be constructed with proper egress window according to State Regulations.

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

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

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

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

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

**BIG BOX RETAIL STORE** shall mean a singular retail or wholesale user who occupies no less than 60,000 square feet of gross floor area, typically requires high parking to building area ratios and has a regional retail/wholesale sales market. These uses typically include: membership wholesale clubs emphasizing in large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point of sale concepts and department stores.

**BILLBOARD** (see Sign, Billboard)

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

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

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

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

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

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

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

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

**BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off

premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

**BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered broadcast towers.

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

**BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.

**BUILDABLE-BUILDING AREA** shall mean the portion of the lot remaining after required yards or setback lines have been provided.

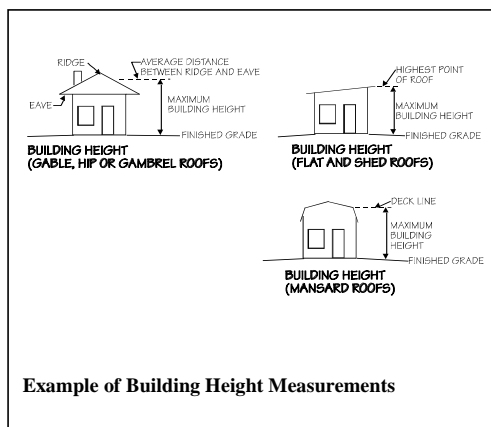
**BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.

**BUILDING, ACCESSORY** shall mean any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

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

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

**BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five foot horizontal distance at the exterior wall of the building, when such sidewalk or ground surface is not more than ten feet above





grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

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

**BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closest point of the building line or face of any building or structure related thereto.

**BULK STORAGE** shall mean the storage of materials for distribution to other locations and not for use or consumption on the same lot.

**CABANA** shall mean a room enclosure erected or constructed adjacent to a mobile home for residential use by the occupant of the mobile home.

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

**CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

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

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

**CELLAR** shall mean a building space having more than one-half of its height below the average adjoining grade lines.

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

**CENTRALIZED SEWER** shall mean a sewer system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point of sanitary waste collection and processing.

**CENTRALIZED WATER** shall mean a water supply system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures and/or uses. Said system shall have a central point(s) of supply with pressurized distribution from said supply point(s).

**CERTIFICATE OF ZONING COMPLIANCE or OCCUPANCY** shall mean a permit stating that the premises have been inspected after the erection, construction, reconstruction, alteration or moving of a building or structure, or after the change in use of character of land, referred to herein, and that the proposed use of the building, structure, or land complies with the provisions of the Ordinance.

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

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

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

**CHILD CARE HOME** (see Family Child Care Home 1 and Family Child Care Home 2)

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

**CITY** shall mean the City of David City.

**CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also see Sight Triangle)

**CLINIC, MEDICAL, DENTAL OR HEALTH** shall mean any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight.

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

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

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

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

**COHESIVENESS** shall mean the unity of composition between design elements of a building and/or a group of buildings and the landscape development.

**COMMERCIAL FEEDING OPERATION** (see Livestock Feeding Operation)

**COMMISSION** shall mean the David City Planning Commission.

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

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

**COMMUNITY SANITARY SEWER SYSTEM** shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

**COMMUNITY WATER SUPPLY SYSTEM** shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.

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

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

**COMPREHENSIVE PLAN** shall mean the Comprehensive Plan of David City, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-903, R.R.S. 1943, as the same may, from time-to-time, be amended.

**CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

**CONDITIONAL USE PERMIT** shall mean a written permit issued by the Zoning Administrator to the current property owner with the written authorization of the Planning Commission. Such permit authorizes the recipient to make conditional use of property in accordance with the provisions of Article 9 and any additional conditions placed upon, or required by said permit.

**CONDOMINIUM** shall mean an ownership regime whereby the title to each unit of occupancy is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units, with each owner having an undivided interest in the common real estate. Condominiums may include residential, commercial, office, or industrial uses. Condominiums are subject to the Nebraska State Statutes, Section 76-801 - 76-823, the Condominium Law.

**CONFINEMENT** shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides,, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.

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

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

**CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

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

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

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

**CONTIGUOUS** shall mean the same as "Abut" or "Abutting" or "Adjacent".

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

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

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

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

**COVER CROP** shall mean agricultural plants limited to alfalfa and brome grass used for an income as well as weed control on an undeveloped property.

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

**CURVE LOT** (see Lot, Curve)

**DAIRY FARM** shall mean any place or premises upon which milk is produced for sale or other distribution.

**DEAD STORAGE** shall mean the storage of any partially dismantled, non operating, wrecked or junked or discarded vehicle on a lot longer than 30 days or for any length of time any vehicle that has been unlicensed for a period in excess of four months; provided that this definition shall not apply to a vehicle in an enclosed building; to a vehicle on the premise of a business enterprise operated in a lawful place and manner when such vehicle is necessary to the lawful operation of the business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

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

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

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

**DEVELOPED AREAS** shall mean an improved block front, or a distance of 300 feet, whichever is less, whereon at least 50 percent of the lots are developed with buildings. If the developed front is measured, it shall be measured 150 feet in each direction from the front line center point of the subject lot.

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

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

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

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

**DISCOUNT CENTER** shall mean a single or group of stores, offering merchandise for sale at less than usual retail prices. Merchandise may be discounted due to either quantity price breaks or merchandise has been discontinued and discounted to another retailer.

**DISTRICT** shall mean a section or sections of the zoning area for which these regulations governing the use of land, the height of buildings, the size of yards and the intensity of use of buildings, land and open spaces are uniform.

**DOG KENNEL** (See Kennel, commercial or private)

**DOMESTIC ANIMALS** (See Household Pet)

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

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

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

**DRIVE-THRU SERVICE** shall mean that portion of a business devoted to dispensing of goods or services from the interior of the building to the customer in his automobile.

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

**DRUGSTORE** shall mean a store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where non-medical products may be sold as well.

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

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

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

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

**DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a

complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

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

**DWELLING, MODULAR** (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, those that do not meet the above criteria shall be considered a mobile home.

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

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

**DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:

- A. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
- 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 two and one-half inches for each 12 inches of horizontal run;
- D. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;  
The home and all accessory buildings over 80 square feet shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, slate, or rock;
- E. (Ordinance No. 1118, 12-9-09)
- F. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- G. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

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- H. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

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

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

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

**EARTH-SHELTERED RESIDENCE** shall mean a residence designed as a complete structure below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located, and which was not intended to serve as a substructure or foundation for a building.

**EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

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

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

**ELEEMOSYNARY INSTITUTION** shall mean any building or group of buildings devoted to and supported by charity.

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

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



**ENVIRONMENTALLY CONTROLLED HOUSING** shall mean any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which roofed, and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept.

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

**EVENT CENTER** shall mean all buildings and associated parking facilities which are kept, used, maintained, advertised, held out, leased out, or otherwise made available to private groups and/or the general public for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, secondhand merchandise sales and the like, and may include a banquet hall, private club or fraternal organization, but not including uses defined in Adult Establishment.

**EXISTING AND LAWFUL** shall mean the use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process or being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.

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

**EXTERIOR BUILDING COMPONENT** shall mean an essential and visible part of the exterior of a building.

**EXTERNAL DESIGN FEATURE** shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

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

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

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

**FAMILY** shall mean one or more persons immediately related by blood, marriage, or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two persons who are unrelated for the purpose of this title. The following persons shall be considered related for the purpose of this title:

- (1) A person residing with a family for the purpose of adoption;

- (2) Not more than six persons under nineteen years of age, residing in a foster home licensed or approved by the State of Nebraska;
- (3) Not more than four persons nineteen years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the state or its delegate;
- (4) Any person who is living with a family at the direction of a court.

**FAMILY CHILD CARE HOME 1** shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home 1 provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

**FAMILY CHILD CARE HOME 2** shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

**FARM** an area containing at least 20 acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

**FARMING** shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

**FARMSTEAD** shall mean a tract of land of not less than 1 acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.

**FEEDLOT** shall mean a lot, yard, corral or other area in which livestock are confined, primarily for the purpose of feeding and growth prior to slaughter. The term does not include areas which are used for raising crops or other vegetation or upon which livestock are allowed to graze.

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

**FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of fence, 50 percent or more of the surface area in open spaces which affords direct views through the fence.

**FENCE, SEASONAL** shall mean a temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting.

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

**FERTILIZER TRANSMISSION LINES** shall mean structures and appurtenant facilities used for the distribution of dry and/or liquid fertilizers.

**FIRE LIMITS** shall mean a designated area or zone where construction must conform to minimum fire ratings.

**FIREWORKS** shall mean any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, firecrackers, torpedoes, sky rockets, Roman candles, Daygo bombs, sparklers, or other fireworks containing any explosive or flammable compound, or any tablet or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps containing not more than 0.25 of a grain (16.20 milligrams) of explosive composition per cap.

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

**FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

**FLAGPOLE** shall mean a freestanding structure or a structure attached to a building or to the roof of a building on a parcel of record and used for the sole purpose of displaying flags of political entities or team sports.

**FLEX SPACE** shall mean an area or district established to provide space for a range of commercial, office, light industrial, and production facilities and support uses such as complimentary office and retail uses.

**FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

**FLOOR AREA RATIO** shall mean the total floor area of all stories of all buildings within the lot or project divided by the land area.

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

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

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

**FURNACE, OUTDOOR CORN AND WOOD PELLETS** shall mean an accessory structure inspected by the State Fire Marshall that burns shelled corn or wood pellets

and is only attached to a building by duct work. Such furnace structures shall include fuel storage structures and areas which shall be of residential character and materials.

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

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

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

**GARBAGE** shall mean any human-made or human-used waste which, if deposited within the city other than in a garbage receptacle, does create or tends to create a danger to public health, safety, and welfare or to impair the environment of the people of the city. Garbage includes any litter, trash, refuse, confetti, debris, rubbish, excrement, urine, offal composed of animal matter or vegetable matter or both, or any noxious or offensive matter including but not limited to grass clippings, leaves, cut weeds, newspaper, magazine, glass, metal, plastic or paper container, or compound, hide, feathers, brick, cinderblock, concrete, sand, gravel, stone, glass or other used construction materials, motor vehicles or parts thereof, furniture, appliances such as refrigerators, freezers, ranges, stoves, washers, and dryers, carcass of a dead animal, ashes, cigarettes, cigars, and food or food products.

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

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

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

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

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

**GROSS FLOOR AREA** shall mean the floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include: (a) the basement floor area and (b) the area of each floor of the structure.

**GROUND COVER** shall mean plant material used in landscaping which remains less than 12 inches in height at maturity. (Also, see Landscaping)

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

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

**GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; (2) A record of having such impairment, or (3) Being regarded as having such impairment. Handicap shall not include current, illegal use of or addiction to a controlled substance as defined in Neb. Stat. §28-401. (R.R.S.Supp, 2000).

**GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units. (Also, see Dwelling, Multiple)

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

**HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.

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

**HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed and surfaced with either asphalt, concrete, crushed rock, or other approved rock except gravel.

**HARMONY** shall mean a quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

**HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

**HEALTH CARE FACILITY** shall mean any building, facility, or complex associated with health care, including hospitals, clinics, medical offices, nursing homes, etc.

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

**HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

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

**HISTORIC BUILDING** shall mean any building or structure that is historically or architecturally significant.

**HISTORIC DISTRICT** shall mean a district or zone designated by a local authority or state or federal government within which the buildings, structures, appurtenances, and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale, including color, proportion, form, and architectural detail; or because of their being a part of or related to a square, park, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical, or architectural motives or purposes.

**HOBBY** (see Home Occupation)

**HOLDING POND** shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes.

**HOME BUSINESS** shall mean an "in-home" or "home based" or entrepreneurial business, industry, service or other concern (not including uses defined as Adult Establishment) operating from no more than 25 percent (not to exceed 400 square feet) of a residential dwelling within an agricultural district of David City, or within part or all of an accessory structure on the same property. Home businesses are considered secondary in nature to the primary use of the structure and/or property only in agricultural zoned districts. Such businesses may employ up to two individuals not residing on the premises.

**HOME FOR THE AGED** (see Long-Term Care Facility)

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

**HOME OCCUPATION** shall mean an "in-home" or "home based" or entrepreneurial business, industry, service or other concern (not including uses defined as Adult Establishment) operating from no more than 25 percent (not to exceed 400 square feet) of a residential dwelling within David City, or within 100 percent (not to exceed 900 square feet) of an accessory structure on the same property. Home occupations are considered secondary in nature to the primary use of the structure and/or property in all residential zoning districts. Such uses shall only include those individuals currently residing on the premises. Occupations defined as Home Occupation II are exempt from

a conditional use permit. All home occupations (I and II) are required to have a Home Occupation License.

- A. Home Occupation I:** shall include art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/mechanical), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber/massage), shops, renting of rooms for residential purposes, and other similar uses.
- B. Home Occupation II:** shall include occupations in which a home phone, computer, etc. are used in deriving income or sales. This includes business offices for services such as construction, repair and cosmetic services/sales rendered at other locations, internet business, and other similar uses.

**HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation. Such license shall include (but not limited to) the following

- A. Application fee in accordance with Master Fee Schedule.
- B. A minimum of 75 percent of the households within 200 feet of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address.
- C. Minimum standards for home occupations as provided in Section 8.01 of the Supplemental Regulations.
- D. Conditional use permit, except for Home Occupation II uses and child care homes.

**HOME OCCUPATION PERMIT** (see Home Occupation License)

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

**HOSPITAL** shall mean an institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities, including wellness centers.

**HOSPITAL, ANIMAL** shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

**HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court and motor hotel.

**HOUSE, TRAILER** (see Dwelling, Mobile Home)

**HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

**HOUSING, CONVENTIONAL CONSTRUCTION** shall mean a structure fabricated entirely on site from wood, brick, concrete or similar material, incorporated with a permanent foundation and intended for use as a single-family, two-family or multi-family dwelling unit.

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

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

**INDUSTRIAL PARK** shall mean a planned industrial subdivision comprising an area of land of not less than three acres, or not less than 200 feet of continuous frontage on a public street designated as a collector or higher, serviced by public or semi-public water and sanitary sewer facilities, and developed according to a general overall platted plan to provide serviced sites for uses permitted in the applicable industrial zone district.

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

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

**INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the city, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.

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

**INSTITUTIONAL BUILDING** shall mean a public and public/private group use of a nonprofit nature, typically engaged in public service (i.e. houses of worship, nonprofit cultural centers, charitable organizations).

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



**INTENT AND PURPOSE** shall mean that the Commission and Council by the adoption of this Ordinance have made a finding that the health, safety, and welfare of the community will be served by the creation of the zoning districts and by the regulations prescribed therein.

**JUICE BAR** (See Adult Establishment)

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

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

**KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which four or more dogs, cats or non-farm/non-domestic animals, at least six months of age, are boarded, bred, or trained for a fee.

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

**KENNEL, PRIVATE** shall mean an establishment where four or more dogs or cats, or combination thereof, other household pets, or non-farm/non-domestic animals at least six months of age, excluding vicious animals, are raised, bred, or boarded.

**KENNEL, VICIOUS or EXOTIC ANIMAL** shall mean an establishment or use where one or more vicious or dangerous or exotic animal(s) is raised, bred, boarded, trained, groomed, or sold.

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

**LAND AREA** shall mean the total area within the lot or project boundaries, plus the area of half of any abutting alley or street right-of-way, or any abutting open space, such as a river, lake, public park, playground or golf course, with reasonable expectancy or perpetuity, provided, however, that no portion of such open space located more than 50 feet from the lot or project boundaries shall be included in computing such land area.

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

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

**LANDSCAPE BUFFER OR LANDSCAPING** shall mean a maintained area of which a minimum of 80 percent shall be covered by any combination of living landscape materials including trees, shrubs, grass or other living ground cover, provided that a minimum of 50 percent of this 80 percent area shall be covered by living trees and shrubs. The remaining 20 percent of the total area shall be covered with landscape material, living or non-living. Trees and shrubs in this 80 percent area shall cover at least one-half of the area required above at the time of issuance of a Certificate of Zoning Compliance. The depth of any buffer shall meet the minimum requirements of the applicable section of this ordinance. Installation of required landscape buffers may be delayed due to winter weather in accordance with this ordinance.

**LARGE BOX RETAIL** (see Big Box Retail Store)

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

**LAWN CARE** shall be a business done either as a Home Occupation or stand alone business that may provide any or all of the following: lawn mowing, snow removal, sprinkler installation, lawn maintenance, and the appurtenant secondary uses such as maintenance of machinery. (Ord. No. 1068, 2-13-08)

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

**LIGHT CUT-OFF ANGLE** shall mean an angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.

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

**LIQUID MANURE** shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface.

**LIQUID MANURE STORAGE PITS** shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production.

**LIVESTOCK** (see Animals, Farm)

**LIVESTOCK FEEDING OPERATION (LFO)** shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so

maintained exceeds 300 Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:

One A.U.= One Cow/Calf combination  
One A.U.= One Slaughter, Feeder Cattle;  
One A.U.= One Horse;  
One A.U.= Seven Tenths Mature Dairy Cattle;  
One A.U.= Two and One Half Swine (55 pounds or more);  
One A.U.= Twenty Five Weaned Pigs (less than 55 pounds);  
One A.U.= Two Sows with Litters;  
One A.U.= Ten Sheep;  
One A.U.= One Hundred Chickens;  
One A.U.= Fifty Turkeys;  
One A.U.= Five Ducks.

**LIVESTOCK WASTES** shall mean animal and poultry excreta and associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.

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

**LOGIC OF DESIGN** shall mean accepted principles and criteria of validity in the solution of the problem of design.

**LONG-TERM CARE FACILITY** shall mean a facility as defined in Title 15, Chapter 3 Nebraska Department of Health and Human Services and NRS Section 71-2017.01. These facilities include:

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

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

the County Register of Deeds and abutting at least one public street or right-of-way, two thoroughfare easements, or one private road.

**LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot, exclusive of any portion of a street or alley right-of-way.

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

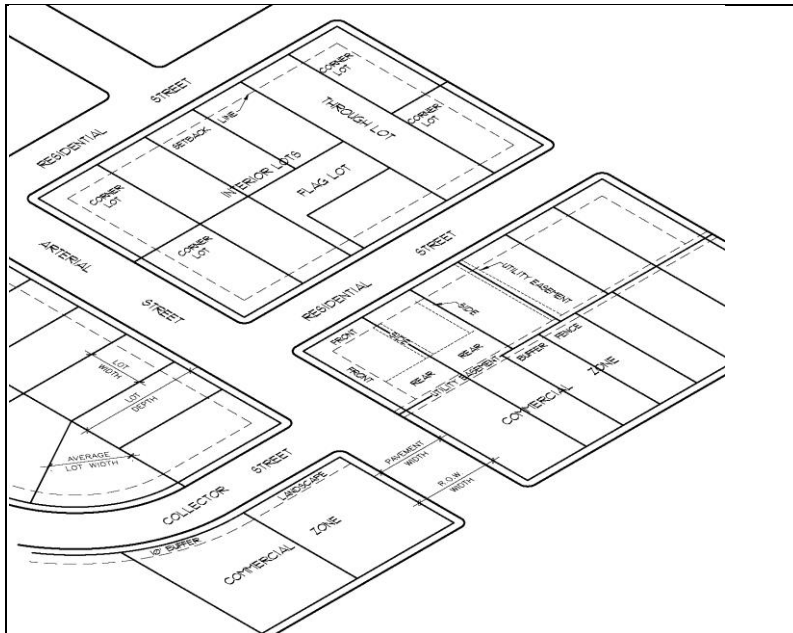
**LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

**LOT, CURVE** shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.

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

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

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



Lot Illustrations

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

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

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

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

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

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

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

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

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

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

**MANUFACTURED BUILDING** shall mean a building that has the following features or characteristics: (a) it is mass-produced in a factory; (b) designed and constructed for transportation to a site for installation and use when connected to required facilities; and (c) it is either an independent individual building or a module for combination with other elements to form a building on the site. The term is not intended to apply to use of prefabricated panels, trusses, plumbing subsystems, or other prefabricated sub-elements incorporated in the course of construction of buildings on the site, but only to major elements requiring minor and incidental on-site combination or installation.

**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 to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axels, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

**MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of

manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

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

**MASSAGE ESTABLISHMENT** shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per §71-1,278 through §71-1,283, Nebr. R.R.S., 1943

**MASSAGE PARLOR** (See Adult Uses)

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

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

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

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

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

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

**MOBILE HOME LOT** shall mean a parcel of land for placement of a mobile home and its accessory buildings or structures for the exclusive use of its occupants.

**MOBILE HOME PARK** shall mean any parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for placement thereon of mobile homes for occupancy. Such mobile homes shall be 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 persons for living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park; and shall include any buildings, structures, tents, vehicles, or enclosures used or intended for use or intended wholly or in part for the accommodation of automobile transients.

**MOBILE HOME SUBDIVISION** shall mean a parcel of land which has been or will be subdivided for the sale of two or more lots to each individual mobile home resident. Typically, but not necessarily, all roads, road right-of-way, water and sewer lines with easements would be dedicated to the political subdivisions which would be responsible for maintenance.

**MODULAR HOME** (See Manufactured Home) (See also Dwelling, Single Family)

**MONOTONY** shall mean repetitive sameness, lacking variety and variation, and/or reiteration.

**MOTEL** (See Hotel)

**MOTOR VEHICLE** shall mean every self-propelled vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

**MOTOR VEHICLE BODY SHOP** shall mean any building or portion thereof, used for the repair or straightening of a motor vehicle body or frame or painting of motor vehicles. Maintenance, service, and engine repair may be performed as an ancillary function of the body work.

**NEBRASKA REVISED REISSUED STATUTES**, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

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

**NON-COMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.

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

**NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulations.

**NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of 20 acres or more which produces \$1,000 or more of farm products each year.

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

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

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

**NURSERY SCHOOL** (see Preschool)

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

**OFFICIAL MAP** (See Map, Official Zoning District)

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

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

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

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

**OUTLOT** shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no building permit shall be issued on any private structures.

**OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".

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



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

**PAINTBALL** shall mean all guns and other devices used for the purpose of firing pellets containing a latex paint at a person or target.

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

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

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

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

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

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

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

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

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

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

**PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

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

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

**PET HEALTH SERVICE** (see Animal Hospital)

**PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry.

**PHARMACY** shall mean a place where drugs and medicines are prepared and dispensed. (See Drugstore)

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

**PLANNING COMMISSION** shall mean the Planning Commission of David City, Nebraska.

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

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

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

**POULTRY, COMMERCIAL FEEDING** shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.

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

**PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.

**PRIVATE WELL** shall mean a well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.

**PRINCIPAL BUILDING** shall mean a building in which the principal use of the lot is situated.

**PRIVATE STREET** shall mean an approved, privately owned, open, unoccupied space other than a street or alley reserved as the principal means of access to abutting property.

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

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

**PROPORTION** shall mean a balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.

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

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

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

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

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

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

**RECREATIONAL ESTABLISHMENT** (see Recreational Facility)

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

**RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a

temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

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

**REINSPECTION FEE** shall mean any fee charged for an inspection other than the initial inspection when required work has not or was not completed and results in additional trips to the site by the inspector or agent of the City.

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

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

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

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

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

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

**RETAINING WALL** shall mean a fence, wall or terraced combination of walls used to retain more than 18 inches of material on the up-hillside from slumping, sliding, or falling, and not used for support, provide a foundation for, or provide a wall for a building or structure.

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

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

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

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

**RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both, and in which all pavement and most utilities are located. The R.O.W. is comprised of the street, parking, and sidewalk.

**ROAD** shall mean the same as "Street".

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

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

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

**SALVAGE YARD** (see Wrecking Yard and Junk Yard)

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

**SCALE** shall mean a proportional relationship of the size of parts to one another and to the human figure.

**SCHOOL, DAY** shall mean a preschool or nursery school for children.

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

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

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

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

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

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

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

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

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

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

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

**SHOPPING CENTER, OUTLET** shall mean a commercial development that consists mostly of manufacturers' outlet stores selling their own brands at a discounted price. This definition includes all forms of centers, such as strip style, enclosed mall style, and village clustered style centers.

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

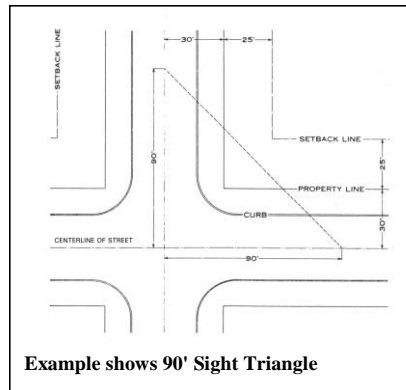
**SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping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

**SIDEWALK SPACE** shall mean the area adjacent to a street between the curb or street paving and the adjacent property line. Such space is also known as the street right-of-way and typically includes the sidewalk.

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

At the intersection of major or other arterial streets, the 60 foot distance shall be increased to 90 feet for each arterial leg of the intersection.

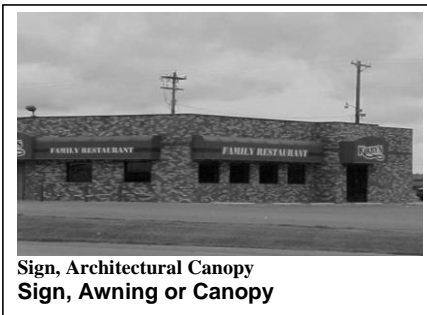
**SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any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



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

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

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

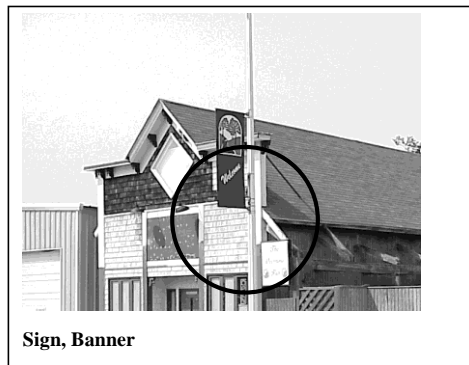


**SIGN, ARCHITECTURAL CANOPY**

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

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

**SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and / or sounds to attract



attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds to attract attention.

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

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

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

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

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

**SIGN, CENTER IDENTIFICATION** shall mean any sign erected to provide direction to a development including multiple uses and / or structures within the development. Center Identification signs shall include the name of said development and may include, when permitted, the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.

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

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

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

**SIGN, CONSTRUCTION** shall mean a temporary sign identifying an architect, engineer, contractor, subcontractor, and/or material supplier who participates in construction on the property on which the sign is located.



**Sign, Monument**  
**Sign, Electronic Message**  
**Sign, Flashing**



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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

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

**SIGN, VIDEO** shall mean any on-premises or off-premises sign that convey either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.

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

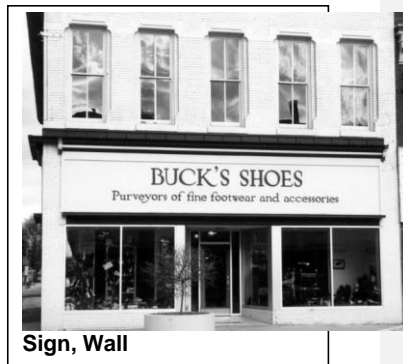
**SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

**SIGN BASE** shall mean any decorative, functional element extending upward from grade to the start of the sign.

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

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

**SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings,



structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

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

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

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

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

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

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

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

**SOLAR PANELS AND EQUIPMENT** shall mean any solar collector, skylight, or other energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, cooling, water heating, or for power generation.

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

**SPECIAL EXCEPTION** (see conditional use permit)

**SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of less than completely and opaquely covered human genitals, buttock, or female breast(s) below a point immediately above the top of the areola.

**SPECIFIED SEXUAL ACTIVITIES** shall mean sexual activities prohibited by the Revised Nebraska State Statutes.

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

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

**STATE** shall mean the State of Nebraska.

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

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

**STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof. Said detention shall be designed by a licensed professional engineer and approved by the City.

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

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

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

**STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above. For purposes of this ordinance, a basement shall be counted as a story if more than four feet of said basement is above the average grade of adjoining ground.

**STORY, ONE-HALF** shall mean the same as "Half-Story".

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

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

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

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

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

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

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

**STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.

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

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

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

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

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

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

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

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

**STRUCTURE, ADVERTISING** shall mean the same as "advertising structure".

**STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components. For the purpose of this ordinance, the following shall not be considered as structural alterations: (a) Attachment of a new front where structural supports are not changed, (b) Addition of fire escapes where structural supports are not changed, and (c) New windows where lintels and support walls are not materially changed.

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

**SUPERMARKET** (see Food Sales)

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

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

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

**TAVERN** (See Bar)

**TEMPORARY STRUCTURE** shall mean a non-permanent structure designed for, or used for, a limited period of time.

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

**THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.

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

**TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance, which part of a structure whose two or more dwelling units are attached horizontally in a linear arrangement having a common wall, and having a totally exposed front and rear wall to be used for access, light, and ventilation, and not located above nor below any other dwelling unit. A townhouse may be owner-occupied.

**TOWNHOUSE OWNERSHIP** shall mean the title of each unit of occupancy, and the real estate on which the unit resides, is held in separate ownership. The minimal ownership shall be the unit and footprint of property on which the unit occupies. The maximum ownership shall be the unit and an area of land which shall reflect the property if the common wall was extended to serve as a property line.

**TOWNHOUSE STRUCTURE** shall mean a building formed by at least two townhouses and not more than twelve contiguous townhouses with common or abutting walls. For

the purpose of the side yard regulations, the structure containing a group of townhouses shall be considered as one building occupying a single lot.

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

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

**TRUCK STOP** shall mean a facility intended to provide services to the motoring public including the following activities: dispensing of fuel and other fuel delivery services, repair shops, automated washes, restaurants, motels, and overnight parking; all as part of the facility.

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

**USE** shall mean the purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of standards of this ordinance.

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

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

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

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

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

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

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

**UTILITY EASEMENT** shall mean the same as "Easement".



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

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

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

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

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

**VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.

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

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

**VETERINARY CLINIC** shall mean a building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, including farm animals, and those who are in need of medical or surgical attention. Such clinics may or may not also provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. Such clinics may or may not also provide general grooming practices for such animals.

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

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

**WASTE DISPOSAL** shall mean the disposal of livestock or human waste by aerial spray, surface broadcast, injection, etc.

**WASTE HANDLING SYSTEM** shall mean any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems:

- A. **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
- B. **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
- C. **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
- D. **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.

**WASTEWATER LAGOON** (See Lagoon)

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

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

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

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

**WIND TURBINE** shall mean an alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

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

**YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.

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

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

**YARD, STREET SIDE** shall mean a front yard on a corner lot that is not determined to be the front yard by the orientation of the house or street designation. For purposes of this ordinance the yards on the north and south sides of an east/west street shall be considered a street side yard.

**YARD, SPECIAL** shall mean a yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" or the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

**YARD, TRANSITIONAL** shall mean a yard in effect when a non-residential zone district abuts or is adjacent across a street to a residential zone district.

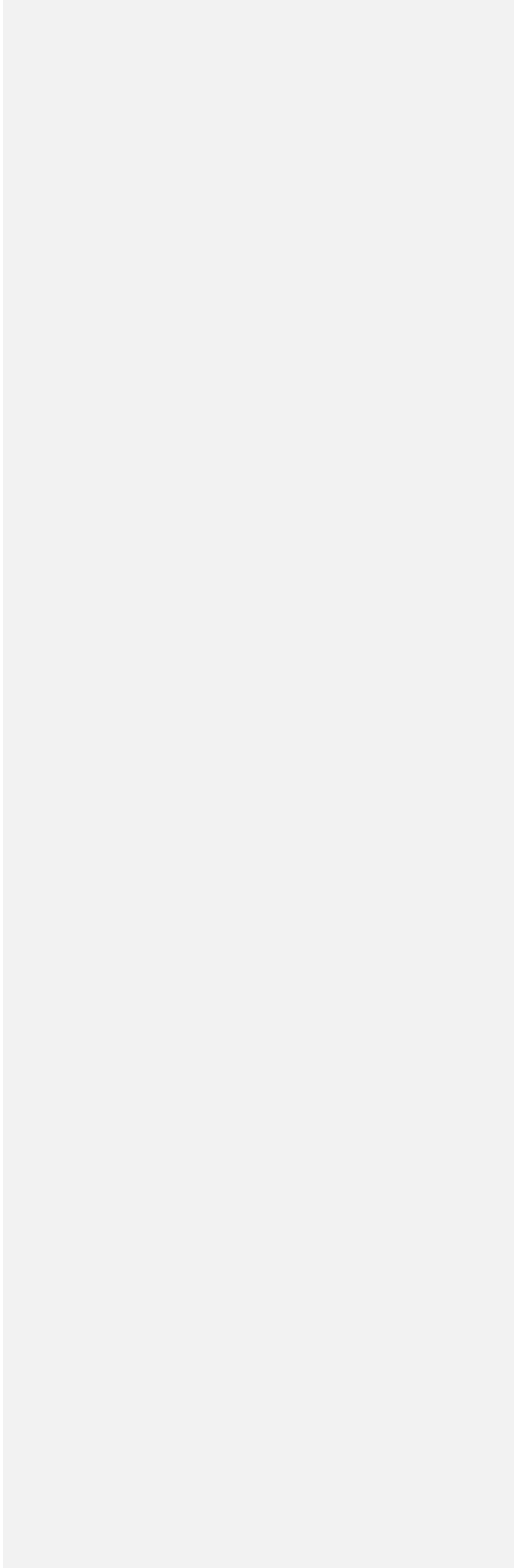
**ZONE LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.

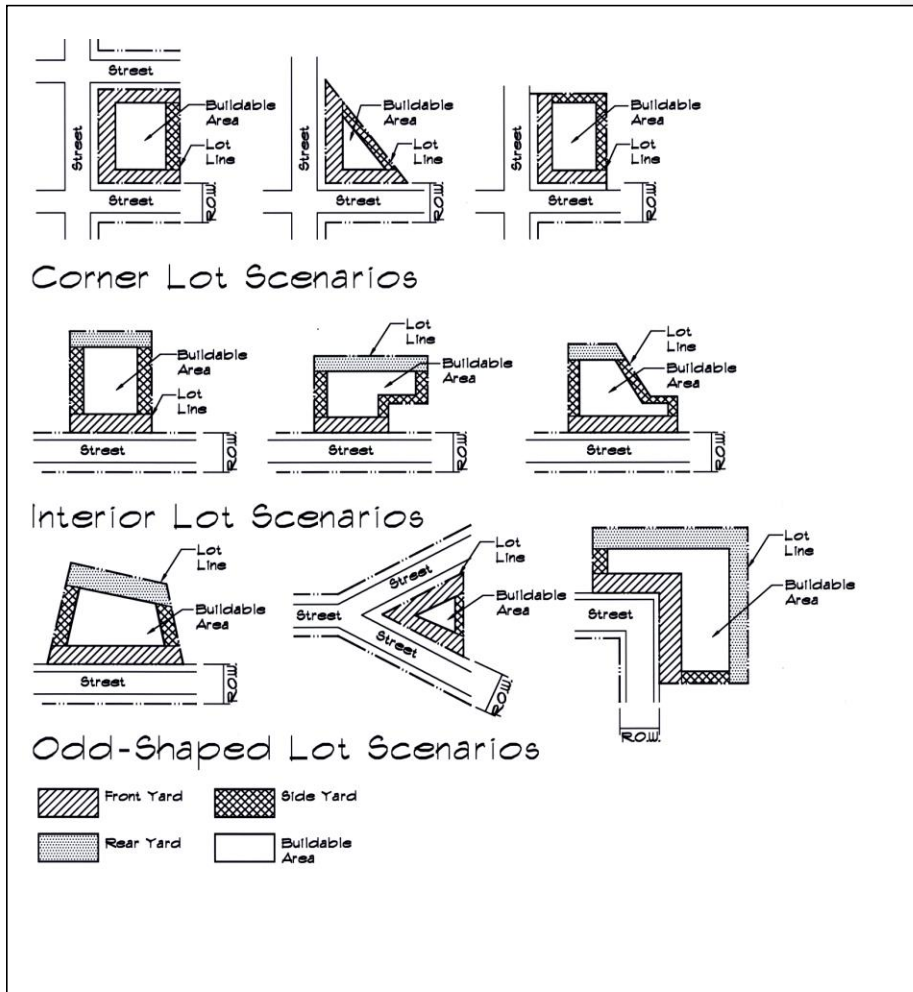
**ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the city to administer and enforce the requirements of this Ordinance.

**ZONING DISTRICT** shall mean the same as "District".

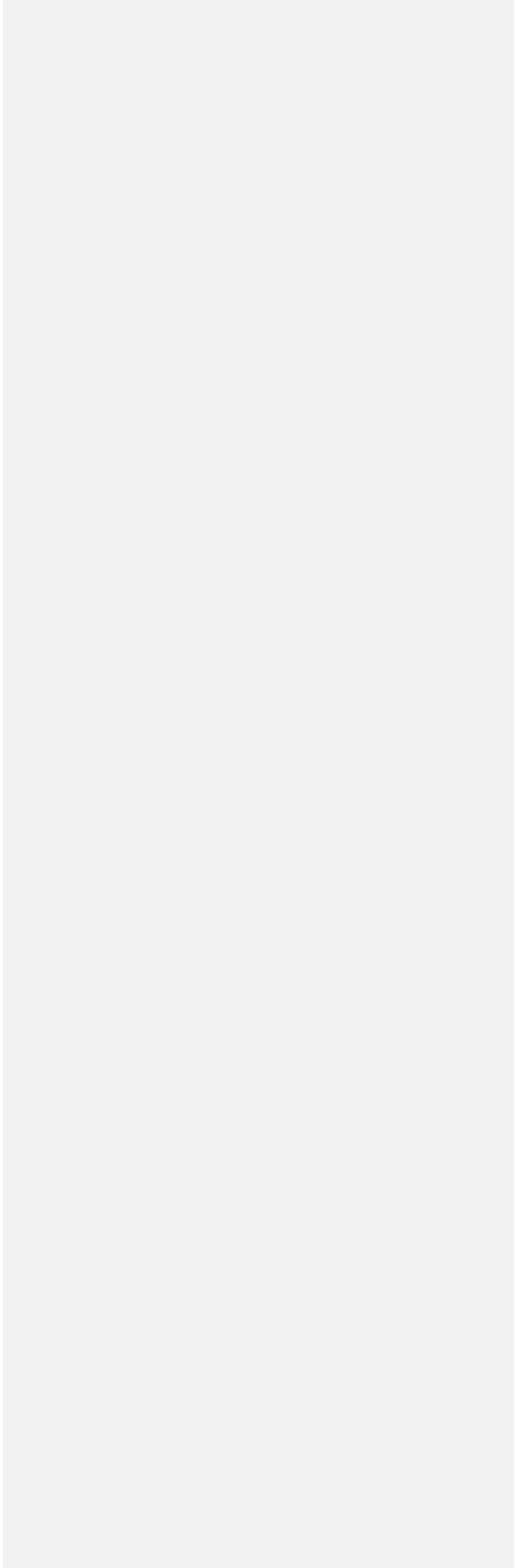
**ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.

**ZONING REGULATIONS** shall mean the requirements stipulated in the regulations herewith attached.





Example of possible Lot Configurations and Yard Requirements



**ARTICLE 3: DISTRICTS AND OFFICIAL MAP**

**Section 3.01 Districts.** In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the city and the area within one mile of the corporate boundaries, the city is hereby divided into districts.

**Section 3.02 Provision for Official Zoning Map.**

3.02.01 The city is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. 1060 of the City of David City, Nebraska", together with the date of the adoption of this ordinance.

If, in accordance with the provisions of this ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted November 14, 2007 in Ordinance No. 1060 of the City of David City, Nebraska."

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

**ARTICLE 4: GENERAL PROVISIONS**

**Section 4.01 Planning Commission Recommendations.** Pursuant to Neb. Rev. Stat. §19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the city.

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

**Section 4.02 District Regulations, Restrictions, Boundary Creation.** No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the city at least one time ten days prior to such hearing.

**Section 4.03 Jurisdiction.** The provisions of this ordinance shall apply within the corporate limits of the City of David City, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile, as established on the map entitled "The Official Zoning Map of the City of David City, Nebraska", and as may be amended by subsequent annexation.

**Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

**Section 4.05 Zoning Affects Every Building and Use.** No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

**Section 4.06 Lot.**

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

4.06.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if approved by the zoning administrator. The minimum setback for such buildings shall be ten feet measured from the nearest point of said buildings.

1. Institutional buildings
2. Public or semi-public buildings
3. Multiple-family dwellings
4. Commercial or industrial buildings
5. Home for the aged
6. Agricultural buildings



**Section 4.07 Reductions in Lot Area Prohibited.** No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**Section 4.08 Obstructions to Vision at Street Intersections Prohibited.** On a corner lot, within the area formed by the center line of streets at a distance of 60 feet from their intersections, there shall be no obstruction to vision between a height of 2 ½ feet and a height of eight feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or other arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. The city administrator has right to increase this distance based upon subdivision design and speed limits along major or other arterials. See "Sight Triangle" as defined in Article 2 of this ordinance.

**Section 4.09 Yard Requirements.**

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The zoning administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1) more than 30 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this ordinance, and 2) a minority of such structures have observed or conformed to an average setback line.
- 4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.09.05 Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District, which is adjacent to any residential use, or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening; except in the Downtown Commercial District. Included in the increased yard, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

**Section 4.10 Through Lots.**

- 4.10.01 Through Lots shall follow the following criteria:
1. Where a Through Lot abuts a major thoroughfare, such as Highway 15, etc., and access is made from the other frontage street and access along said thoroughfare is restricted, fences and screening devices shall meet all fence and screening requirements and shall be treated as if they were in a rear yard. The Rear Yard setback for primary and accessory buildings shall follow the prescribed setback within the zoning district.
  2. Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of number 1 above,

- while the other two frontages shall be treated as a Corner Lot with a Front Yard setback and a Street Side Yard setback.
3. Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:
    - a. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot.
    - b. Where principal structures face different directions along both frontages, the setback for fences and screening to the rear of said structures shall be the same as any prescribed Front Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot. All accessory buildings in this condition, shall comply with the minimum Front Yard setbacks rather than the reduced setback allowed for accessory buildings.

**Section 4.11 Drainage.** No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent with data indicating that such changes will not be a detriment to the neighboring lands.

**Section 4.12 Permitted Obstructions in Required Yards.** The following shall not be considered to be obstructions when located in the required yards:

- 4.12.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting 24 inches or less into the yard; recreational equipment and clothes lines; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than 18 inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards..
- 4.12.02 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted.
- 4.12.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.12.04 *Double Frontage Lots:* The required front yard shall be provided on each street, unless otherwise provided.
- 4.12.05 *Building Groupings:* For the purpose of the side yard regulation, a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

**Section 4.13 Projections from Buildings**

- 4.13.01 Cornices, eaves, canopies, belt courses, sills, ornamental features, and other similar architectural features may project not more than two feet into any required yard or into any required open space, provided that such required yard or open space meets the current minimum yard standards.
- 4.13.02 As a part of single and two family residences, open uncovered porches or decks no higher than 18 inches above grade of the lot on the side of the structure where such porch or deck is located may be permitted in any required yard for accessibility purposes to principle structure with a required zoning permit.

- 4.13.03 As a part of single and two-family residences, uncovered porches, decks, or ramps needed for medical reasons no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than 30 inches above grade of the lot on the side of the structure where such porch, deck or ramp is located, may be allowed and extend:
1. Three feet into any side yard that otherwise meets minimum side yard requirements provided that the other side yard also meets such minimum side yard requirements and remains free of encroaching structures of any kind; and that said new encroachment meets all separation requirements between structures as determined in the City's Regulations, except gated fences providing access to the rear yard.
  2. Eight feet into a front yard provided that the front yard otherwise meets minimum front yard requirements and provided further 1) that in no event may such porch or deck cover more than 96 square feet of the required front yard or extend beyond the side walls of the building structure, and 2) front decks or porches shall not be higher than 30 inches above ground and no higher than the first floor, except that on homes with front entryways at first floor level but driveway cuts and garage floors at basement level, there may be constructed a veranda-type uncovered deck or porch extending from the front deck or porch over the garage door or doors, which extended area shall be at the same elevation and shall have bracing as required by the zoning administrator, and 3) Covered porches, built of materials of the same or similar nature as the roof of the principal structure may be allowed with eaves not to exceed 12 inches.
  3. Safety railings shall be installed as per the City's Regulations and as approved by the zoning administrator.
  4. One-half of the distance into the required rear yard, but in no event closer than 15 feet to any property line.
- 4.13.04 Provided further, that no railing or other shall be placed around such deck or porch in a rear yard or side yard and no such barrier which interferes appreciably more than 25 percent with the passage of light or air shall be constructed within the required front yard or within five feet of any side yard or 15 feet of any rear yard lot line. Any such deck or porch when 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 distances as set forth in this ordinance for fences and hedges. Any side yard on a corner lot may be considered as a front yard for purposes of determining permitted encroachments as provided herein.

**Section 4.14 Accessory Buildings and Uses.**

- 4.14.01 No accessory building shall be constructed upon a lot for more than six months prior to beginning construction of the principal building. No accessory building shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.14.02 No detached accessory building or structure shall exceed the maximum permitted height of accessory structures in the proper zoning district.
- 4.14.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.14.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet.
- 4.14.05 The maximum height of any use shall be decreased to 35 feet when located within 100 feet of any residential district.

4.14.06 Detached garages and outbuildings in R-1, R-2, R-3 and RM Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed and finished of materials customarily used in residential construction, similar color as the principle structure, and the following:

1. Be constructed of materials that are in good repair,
2. The sidewalls of said building shall not exceed 10 feet in height,
3. Garages shall have an overhang of at least six inches,
4. Garages shall have a maximum width of 36 feet.

4.12.07. Regulation of accessory uses shall be as follows:

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street, nor be located between the principle structure and the street in a R-1, R-2, R-3 or R-M District.
2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.
3. Storage of any boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard; except that a boat, boat trailer, camp trailer may be placed on rock or concrete surfacing in a side yard or rear yard.

**Section 4.15 Permitted Modifications of Height Regulations.**

4.15.01 The height limitations of this ordinance shall not apply to the following, provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district:

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

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

**Section 4.16 Occupancy of Basements and Cellars.** No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, and any required emergency egress provisions as required per State and life-safety codes.

**Section 4.17 Non-Conforming, General Intent.** It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this these regulations.

**Section 4.18 Nonconforming Lots of Record.** In any district, notwithstanding limitations imposed by other provision of this ordinance, a primary structure and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Zoning Adjustment.

**Section 4.19 Nonconforming Structures.**

- 4.19.01 ***Authority to Continue:*** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 4.19.02 ***Enlargement, Repair, Alterations:*** Any such structure described in Section 4.19.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. All enlargements shall meet all existing required setbacks unless provided elsewhere in this ordinance.
- 4.19.03 ***Damage or Destruction:*** In the event that any structure described in Section 4.19.01 is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.18, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 4.19.04 ***Moving:*** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless a zoning permit is granted and the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 4.20 Nonconforming Uses.**

- 4.20.01 ***Nonconforming Uses of Land:*** Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
  3. If any such nonconforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 4.20.02 **Nonconforming Uses of Structures:** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
  2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
  3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Planning Commission and City Council, after each has completed a Public Hearing as per State Statute, 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 and/or City Council may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
  4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
  5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
  6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Section 4.21 Repairs and Maintenance.**

- 4.21.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 4.21.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 4.22 Uses under Conditional Use Permit to be Nonconforming Uses Upon Transfer.** Any use for which a conditional use permit is issued as provided in this ordinance shall be deemed a nonconforming use upon transfer of property unless current owner has applied and is granted such conditional use permit.

**Section 4.23 Drive-in Facilities.** Any use permitted in an zoning district which intends to conduct a portion or all of its business with persons desiring to remain in their automobiles, or which allows products to be consumed on the premises outside the principal building, and which is not subject to the conditional use reviewed in the provisions in Article 6 or is not a part of a Clustered/Mixed Use District, must submit a site plan to be reviewed and approved by the City. In reviewing and approving the site plan for such a use, the City must be satisfied that the traffic circulation on and adjacent to the site conforms to the following criteria:

- 4.23.01 Traffic circulation shall be arranged so that internal pedestrian and vehicular movements are compatible and traffic hazards are minimal.
- 4.23.02 Traffic circulation, ingress and egress shall be arranged so as to avoid hazardous or adverse effects on adjacent sites and streets.

**Section 4.24 Recreational Vehicles, Trailers, or Equipment.** All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere within this Ordinance. Such vehicles, trailers, or equipment shall not be parked or maintained in the required front yard.

**Section 4.25 Prohibited Uses.** All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this ordinance is amended to include a given use.

**Section 4.26 Fees.** The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be part of the Master Fee Schedule adopted and published by the City Council by separate ordinance.

**ARTICLE 5: ZONING DISTRICTS**

5.01	Districts; Uses	
5.02	Districts; Boundaries	
5.03	District Boundaries; Interpretation	
5.04	Districts; Classification of Districts upon Annexation and Conformance with Land Use Plan	
5.05	District (TA);	Transitional Agriculture
5.06	District (RA);	Residential Agriculture
5.07	District (R-1);	Single-Family Residential
5.08	District (R-2);	Two-Family Residential
5.09	District (R-3);	Multi-Family Residential
5.10	District (R-M);	Mobile Home Residential
5.11	District (C-1);	Highway Commercial
5.12	District (C-2);	Downtown Commercial
5.13	District (I-1);	Light Industrial
5.14	District (I-2);	Heavy Industrial
5.15	District (FS);	Flex Space Mixed Use
5.16	District (AH);	Airport Hazard (overlay)
5.17	Reserved	

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**Section 5.01 Districts; Use.** For the purpose of this ordinance, the municipality is hereby divided into 12 districts, designated as follows:

- (TA) Transitional Agriculture
- (RA) Residential Agriculture
- (R-1) Single-Family Residential
- (R-2) Two-Family Residential
- (R-3) Multi-Family Residential
- (R-M) Mobile Home Residential
- (C-1) Highway Commercial
- (C-2) Downtown Commercial
- (I-1) Light Industrial
- (I-2) Heavy Industrial
- (FS) Flex Space Mixed Use
- (AH) Airport Hazard (overlay)

**Section 5.02 Districts; Boundaries.** The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of David City, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this ordinance. Such changes shall be promptly indicated on the Zoning District Map with the ordinance number, nature of change, and date of change noted on the map.

**Section 5.03 Rules for Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following city limits shall be construed as following such city limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line;
- 5.03.06 Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 5.03.07 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01-5.03.06 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.08 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01-5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;
- 5.03.09 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit



- the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- 5.03.10 When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district that controls the majority of the property may be extended over the entire property without amending the zoning map through the public hearing process.
- 5.03.11 When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

**Section 5.04 Classification of Districts upon Annexation and Conformance with the Land Use Plan.** Areas annexed into the corporate limits of David City shall be zoned to conform to the adopted Future Land Use Plan.

**Section 5.05 TA Transitional Agriculture District**

**5.05.01 Intent:** The Transitional Agriculture District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry.

**5.05.02 Permitted Uses.**

The following principal uses are permitted in the TA District:

1. Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no more than 50 animal units shall be established, provided the producer can meet a density of one acre for the first A.U. and one-half acre for each additional A.U.
2. Residential dwellings for use by the owners and their families, tenants, and employees.
3. Single-family dwellings (detached)
4. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
5. Railroads, not including switching, terminal facilities or freight yards.
6. Public overhead and underground local distribution utilities.
7. Churches, temples, seminaries, and convents including residences for teachers and pastors.
8. Public services such as police, fire, and emergency facilities.
9. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries or museums.
10. Roadside stands offering the sale of agriculture products produced on the premises.

**5.05.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the TA District as recommended and approved by the Planning Commission:

1. Commercial auction yards and barns.
2. Home business and home occupations (Home Occ. I), including retail sale and distribution of agricultural products that have been produced on the premises.
3. Feed mills.
4. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), fishing lakes, gun clubs and swimming pools.
5. Commercial greenhouses.
6. Airports.
7. Public and private stables and riding clubs, provided:
  - a. No structure or building used to house horses or other animals is located closer than 300 feet to any R-1, R-2, R-3 or R-M District.
  - b. Minimum lot area of five acres.
8. Private or commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, provided:
  - a. No structure or building is located closer than 300 feet to any residential use or district.
  - b. Minimum lot area of four acres.
9. Agricultural storage facilities for equipment and grain.
10. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
11. Extraction of sand, gravel, or other raw material.

12. Hospitals, clinics, institutions, including educational, religious and philanthropic institutions, and convalescent homes, provide the following and/or other conditions and standards are met:
  - a. Building shall not occupy more than 40% of the total lot area,
  - b. Building setbacks from all yards shall not be less than one foot per foot of building height.
13. Radio, television and wireless communication towers and transmitters, pursuant to Section 8.02.
14. Cemeteries provided all structures are located at least 100 feet from all property lines.
15. Water supply and storage facilities, wastewater treatment, sewage disposal, and solid waste disposal facilities.
16. Veterinarians' offices and hospitals, provided
  - a. No structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district.
17. Waste disposal.
18. Commercial Wind energy systems on tracts of more than 10 acres, pursuant to Section 8.06.
19. Public campgrounds.
20. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
21. Bed and Breakfast establishments.
22. Seasonal dwelling units.
23. Second single-family dwelling units/structures on a farm or ranch provided they are used for relatives or farm workers associated with the farm operation.

**5.05.04 Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article 7.
4. Parking as provided for in Article 6.
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
6. Fences pursuant to Section 8.03.
7. Decks, gazebos, elevated patios either attached or detached.
8. Small wind energy systems pursuant to Section 8.05.
9. Home Occupations (Home Occ. II).

**5.05.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Acres)	Lot Width	Front Yard <sup>1</sup>	Side Yard <sup>1</sup>	Rear Yard <sup>1</sup>	Max. Height	Max. Lot Coverage
Residential Dwelling	5	300'	50'	15'	50'	35'	40%
Other Permitted Uses	5	300'	50'	15'	50'	45'	40%
Other Permitted Conditional Uses	5	300'	50'	15'	50'	45'	40%
Accessory Buildings <sup>2</sup>	-	-	75'	15'	25'	45'	40%

<sup>1</sup> All setbacks shall be a minimum of 50 feet from property line along a state highway or city street classified as an arterial, 30 feet from the property line along a city street classified as collector, and at least 50 feet from the road right-of-way along a county road.

<sup>2</sup> Accessory Buildings may be larger than primary structure.

**5.05.06 Other Applicable Provisions**

1. The following uses shall be located a minimum of 2,640 feet from any adjacent residential, commercial, industrial, or public use, as measured from the nearest point on the lot line.
  - a. Commercial auction yards or barns.
  - b. Mining and extraction of natural resources.
  - c. Feed mills.
  - d. Veterinarians' offices and hospitals, and boarding kennels, applicable only to any structure or building used to house horses or other farm animals.
  - e. Raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
  - f. Stables and riding clubs, applicable only to any structure or building used to house horses or other animals.
  - g. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
  
2. No new residential, commercial, industrial, or public use shall be located nearer than 3,960 feet to any existing use listed in Section 5.05.06 (1).

**Section 5.06 RA Residential Agriculture District**

**5.06.01 Intent:** The Residential Agriculture District is intended to permit the continuation of productive agricultural uses outside and near the corporate limits of David City, while also accommodating single-family residential and compatible uses.

**5.06.02 Permitted Uses.**

The following principal uses are permitted in the RA District:

1. Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than six animal units shall be established.
2. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
3. Single family dwelling (detached).
4. Public services.
5. Publicly owned and operated facilities.

**5.06.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the RA District as recommended and approved by the Planning Commission:

1. Radio, television and wireless communication towers and transmitters, as per Section 8.02.
2. Cemeteries, provided all structures are located at least 100 feet from all property lines.
3. Wastewater treatment facilities.
4. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
5. Home business and home occupations (Home Occ. I), including retail sale and distribution of agricultural products that have been produced on the premises.
6. Raising and care of animals such as for 4-H, Future Farmers of America (FFA) or other rural/school organizations between seven and 12 animal units, provided the operator can meet a density of one acre for the first A.U. and one-half acre for each additional A.U.
7. Wind energy systems on tracts of more than ten acres, as per Section 8.06.
8. Campgrounds.
9. Private or commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, provided:
  - a. No structure or building is located closer than 300 feet to any R-1, R-2, R-3 or R-M District.
  - b. Minimum lot area of five acres.
10. Water reservoir.
11. Public overhead and underground local distribution utilities.

**5.06.04 Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article 7.
4. Parking as provided for in Article 6.
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
6. Fences pursuant to Section 8.03.

7. Decks, gazebos, elevated patios either attached or detached.
8. Small wind energy systems pursuant to Section 8.05.
9. Home Occupations (Home Occ. II).

**5.06.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Acres)	Lot Width	Front Yard <sup>1</sup>	Side Yard <sup>1</sup>	Rear Yard <sup>1</sup>	Max. Height	Max. Lot Coverage
Residential Dwelling	3	250'	50'	15'	50'	35'	40%
Other Permitted Uses	3	250'	50'	15'	50'	45'	40%
Other Permitted Conditional Uses	3	250'	50'	15'	50'	45'	40%
Accessory Buildings <sup>2</sup>	-	-	75'	15'	25'	45'	20%

<sup>1</sup> All setbacks shall be a minimum of 50 feet from property line along a state highway or city street classified as an arterial, 30 feet from the property line along a city street classified as collector, and at least 50 feet from the road right-of-way along a county road.

<sup>2</sup> Accessory structures may be permitted to be up to 50% larger than the primary structure located on the same lot.

**Section 5.07 R-1 Single-Family Residential.**

**5.07.01** **Intent:** The Single-Family Residential District is intended to permit low to medium-density residential developments to accommodate residential and compatible uses.

**5.07.02 Permitted Uses.**

The following principal uses are permitted in the R-1 District:

1. Single family dwellings.
2. Public Services.
3. Publicly owned and operated facilities.
4. Family Child Care Home.

**5.07.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended and approved by the Planning Commission:

1. Public and private recreation areas as, country clubs, golf courses, lakes, and common areas, but not including commercial miniature golf, golf driving ranges, motorized cart tracts, and similar uses not on less than ten acres.
2. Churches, temples, seminaries, convents, including residences for teachers and pastors.
3. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
4. Home Occupations (Home Occ. I).
5. Child Care Center.
6. Cover crops - provided the following:
  - a. The minimum area required is 2 acres.
  - b. The cover crop may only be rotated once every seven seasons, for one season, with oats or wheat.
  - c. The planting of any other crop shall constitute non-compliance with the Conditional Use Permit and shall cause the permit to be revoked and the crop removed at the property owner's cost.
  - d. No grazing shall be allowed on cover crop.

**5.07.04 Permitted Accessory Uses:**

The following accessory uses are permitted in the R-1 Single-Family Residential District:

1. Buildings and uses customarily incidental to the permitted uses.
2. Home Occupations (Home Occ. II).
3. Decks, elevated patios either attached or detached.
4. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
5. Fences, pursuant to Section 8.03.
6. Parking for permitted uses as per Article 6.
7. Signs allowed in Article 7.
8. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
9. Landscaping as required by Section 8.09.
10. Fireworks stands provided the criteria are met as established by the city through separate ordinances.

**5.07.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard <sup>2</sup>	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Single-family Dwelling	10,500	75'	(?)	12'	20'	35'	40%
Cover crop	87,120	-	-	-	-	-	-
Other Permitted and Conditional Uses	10,500	75'	(?)	12'	20'	45'	40%
Accessory Buildings	-	-	(?)	6'	6'	17'	10% <sup>1</sup>

<sup>1</sup> Provide total area of accessory structure for single family does not exceed 900 sq. ft. and the total lot coverage of all buildings and attached structure does not exceed 50%

<sup>2</sup> There shall be a minimum front yard of not less than a depth of 50 feet from a county road right-of-way or property line on a street line classified on the City's Major Street Plan as an arterial, 30 feet from a street classified as a collector, and 20 feet from a street classified as a local street or private street.



**Section 5.08 R-2 Two-Family Residential**

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

**5.08.02**      **Permitted Uses.**  
The following principal uses are permitted in the R-2 District:

1. Single family detached dwellings.
2. Single family attached / Townhomes.
3. Two-family, duplex, dwellings.
4. Public and private schools.
5. Publicly owned and operated facilities.
6. Public Services.
7. Family Child Care Home.

**5.08.03**      **Conditional Uses.**  
The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended and approved by the Planning Commission:

1. **Bed and Breakfasts.**
  - a. Guest rooms shall be within the principal residential building only and not within an accessory building.
  - b. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
2. **Townhouses/Condominiums**
  - a. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
  - b. Each unit shall be serviced by separate facilities.
  - c. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit.
  - d. No more than three units shall be connected in this district.
3. Churches, temples, seminaries, and convents including residences for teachers and pastors.
4. Private country clubs and golf courses, but not including commercial miniature golf, golf driving ranges, motorized cart tracts, and similar uses not on less than ten acres.
5. Public utility substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar uses.
6. Home Occupations (Home Occ. I).
7. Child Care Center.
8. Cover crops provided the following:
  - a. The minimum area required is 2 acres.
  - b. The cover crop may only be rotated once every seven seasons, for one season, with oats or wheat.
  - c. The planting of any other crop shall constitute non-compliance with the Conditional Use Permit and shall cause the permit to be revoked and the crop removed at the property owner's cost.
  - d. No grazing shall be allowed on cover crop.

**5.08.04 Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Home Occupations (Home Occ. II).
3. Decks, elevated patios either attached or detached.
4. Fences, pursuant to Section 8.03.
5. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
6. Signs as provided for in Article 7.
7. Parking as provided for in Article 6.
8. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
9. Landscaping as required by Section 8.09.
10. Fireworks stands provided the criteria are met as established by the city through separate ordinances.

**5.08.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be follows:

	Lot Area (SF)	Lot Width	Front Yard <sup>2</sup>	Side Yard <sup>2</sup>	Rear Yard	Max. Height	Max. Lot Coverage
Single-family Dwelling (detached)	7,000	50'	( <sup>2</sup> )	6'	20'	35'	60%
Two-family Dwelling	7,000	100'	( <sup>2</sup> )	6'	20'	35'	60%
Single-family attached	4,000 per unit	50' per unit	( <sup>2</sup> )	6'	20'	35'	60%
Townhouses/Condominiums <sup>4</sup>	2,000 per unit	20' per unit <sup>5</sup>	(3)	6'	20'	35'	60%
<u>Cover crop</u>	<u>87,120</u>	-	-	-	-	-	-
Other Permitted and Conditional Uses	7,000	50'	( <sup>2</sup> )	6'	20'	45'	60%
Accessory Buildings	-	-	( <sup>2</sup> )	6'	6'	17'	10% <sup>1</sup>

- <sup>1</sup> Provide total area of accessory structure for single family does not exceed 900 sq. ft. and the total lot coverage of all buildings does not exceed 70%
- <sup>2</sup> There shall be a minimum front yard of not less than a depth of 50 feet from a county road right-of-way or property line on a street classified on the City's Major Street Plan as an arterial, and 20 feet from a street classified as a collector, local or private street. For corner lots, (including local and collector streets), for the front yard, which abuts a north-south street right-of-way, the setback requirements shall be 20 feet, and for the front yard, which abuts an east-west street right-of-way, the setback requirement shall be 12 feet.
- <sup>3</sup> The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
- <sup>4</sup> This applies to Condominiums and Townhouses where there are three (3) more units connected and where there is a minimum of two (2) common walls, otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.
- <sup>5</sup> End lots shall be a minimum of 50' in width.

**Section 5.09 R-3 Multi-Family Residential**

**5.09.01 Intent:** The purpose of this district is to permit high density residential, including single-family dwellings, two-family dwellings, and multi-family dwelling development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

**5.09.02 Permitted Uses:**

The following principal uses are permitted in the R-3 District:

1. Single family detached dwellings.
2. Two-family, duplex, dwellings.
3. Single family attached dwellings.
4. Publicly owned and operated facilities.
5. Public Services.
6. Family Child Care Home.

**5.09.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-3 District as recommended and approved by the Planning Commission:

1. Multiple family dwellings.
2. Townhouses and Condominiums.
  - a. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
  - b. Each unit shall be serviced by separate facilities.
  - c. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit.
  - d. No more than six units shall be connected in this district.
3. Bed and Breakfast.
  - a. Guest rooms shall be within the principal residential building only and not within an accessory building.
  - b. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
4. Churches, temples, seminaries, and convents including residences for teachers and pastors.
5. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
6. Commercial recreational areas and facilities such as swimming pools and water parks.
7. Private country clubs and golf courses, but not including commercial miniature golf, golf driving ranges, motorized cart tracts, and similar uses not on less than ten acres.
8. Public utility substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar uses.
9. Home Occupations (Home Occ. I).
10. Child Care Center.
11. Charitable clubs and organizations.

**5.09.04 Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Home Occupations (Home Occ. II).

3. Decks, elevated patios either attached or detached.
4. Fences, pursuant to Section 8.03.
5. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
6. Signs as provided for in Article 7.
7. Parking as provided for in Article 6.
8. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
9. Landscaping as required by Section 8.09.
10. Fireworks stands provided the criteria are met as established by the city through separate ordinances.

**5.09.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width	Front Yard <sup>3</sup>	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Single-family Dwelling	7,000	50'	( <sup>3</sup> )	6'	20'	35'	70%
Single-family Attached	4,000 per unit	50' per unit	( <sup>3</sup> )	6'	20'	35'	70%
Two-family Dwelling	7,000	100'	( <sup>3</sup> )	6'	20'	35'	70%
Townhouses/Condominiums <sup>4</sup>	<del>4,000</del> 2,000 per unit	<del>50'</del> 20' per unit <sup>6</sup>	( <sup>3</sup> )	6' <sup>5</sup>	20'	35'	70%
Multi-family Dwelling	1,500 per unit	100'	( <sup>3</sup> )	( <sup>1</sup> )	20'	55' <sup>1</sup>	70%
Other Permitted and Conditional Uses	7,000	50'	( <sup>3</sup> )	6'	20'	55'	70%
Accessory Buildings	-	-	( <sup>3</sup> )	6'	6'	17'	10% <sup>2</sup>

- <sup>1</sup> For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories.
- <sup>2</sup> Provide total area of accessory structure for single family does not exceed 900 sq. ft. and the total lot coverage of all buildings does not exceed 70%
- <sup>3</sup> There shall be a minimum front yard of not less than a depth of 50 feet from a county road right-of-way or property line on a street classified on the City's Major Street Plan as an arterial, and 20 feet from a street classified as a collector, local or private street. For corner lots, (including local and collector streets), for the front yard, which abuts a north-south street right-of-way, the setback requirements shall be 20 feet, and for the front yard, which abuts an east-west street right-of-way, the setback requirement shall be 12 feet.
- <sup>4</sup> This applies to Condominiums and Townhouses where there are three (3) more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.
- <sup>5</sup> Where there are ~~three (3) or more~~ units connected the side yard at the ends shall meet this criteria otherwise the side yard setback shall ~~be zero (0)~~ at common walls.
- <sup>6</sup> End lots shall be a minimum of 50' in width.

**Section 5.10 R-M Mobile Home Residential District**

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

**5.10.02 Permitted Uses.**

The following uses are permitted in the R-M Mobile Home Residential District.

1. Single family dwelling.
2. Mobile Home Dwellings.
3. Private and public park, playground and recreational facilities.
4. Public buildings.
5. Family Child Care Homes.

**5.10.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-M District as recommended and approved by the Planning Commission:

1. Home occupation (Home Occ. I).
2. Child Care Center
3. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
4. Sewage disposal and water supply and treatment facilities.
5. Campgrounds.

**5.10.04 Permitted Accessory Uses.**

1. Buildings and uses customarily incidental to the permitted uses.
2. Home Occupations (Home Occ. II).
3. Decks, elevated patios either attached or detached.
4. Fences, pursuant to Section 8.03.
5. Parking as provided for in Article 6.
6. Signs as provided for in Article 7.

**5.10.05 Area and Lot Requirements.**

1. A mobile home park shall have an area of not less than five acres. No mobile homes or other structures shall be located less than 50 feet from property line along a state highway or city street classified as an arterial, 30 feet from the property line along a city street classified as collector, and at least 50 feet from the road right-of-way along a county road. These areas shall be landscaped. The minimum lot width for a mobile home park shall be 200 feet.
2. Each lot provided for occupancy of a single mobile home shall have an area of not less than 5,000 square feet, excluding road R.O.W., and a width of not less than 50 feet for an interior lot, 80 feet for a corner lot, or 45 feet when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:
  - a. Side yards shall not be less than six feet on one side and not less than six feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of 20 feet on the side abutting a street/road.

- b. Front yard of not less than 20 feet.
- c. A rear yard of not less than 20 feet.
3. There shall be a minimum livable floor area of 500 square feet in each mobile home, when mobile home is owned and leased by the mobile home park owner.
4. Height of Buildings.
  - a. Maximum height for principal uses: 35 feet.
  - b. Maximum height for accessory uses: 17 feet.
5. Each lot shall have access to a hard surfaced drive not less than 22 feet in width excluding parking
6. City water and sewage disposal facilities shall be provided with connections to each lot. The water supply shall be sufficient for domestic use and for fire protection.
7. Tie downs shall meet all manufacturers' recommendations.
8. Service buildings including adequate laundry and drying facilities, and toilet facilities for mobile homes which do not have these facilities within each unit.
9. Not less than 8% of the total court area shall be designated and used for park, playground and recreational purposes.
10. Limitations on Lot Coverage shall be no more than 45%.
11. Storm shelters shall be required and shall meet the following criteria:
  - a. Shelter space equivalent to two persons per mobile home lot,
  - b. Designed in conformance with "National Performance Criteria for Tornado Shelters" by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
  - c. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
12. All mobile home pad locations shall be hard surfaced with properly reinforced Poured in Place Concrete.
13. All mobile homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.
14. All off-street parking shall be hard surfaced.
15. All mobile homes shall comply with all other City Ordinances.

**5.10.06 Plan Requirements.**

1. A complete plan of the mobile home court shall be submitted showing:
  - a. A development plan and grading plan of the court.
  - b. The area and dimensions of the tract of land.
  - c. The number, location, and size of all mobile home spaces.
  - d. The number, location, and size of all hard surfaced pads shall be shown.
  - e. The area and dimensions of the park, playground and recreation areas.
  - f. The location and width of roadways and walkways.
  - g. The location of service buildings and any other proposed structures.
  - h. The location of water and sewer lines and sewage disposal facilities.
  - i. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

**Section 5.11 C-1 Highway Commercial**

- 5.11.01** **Intent:** This district adds certain design standards in comparison to zoning districts located along Nebraska State Highway 15. They are designed to promote:
1. Safe traffic circulation on and off and across the highway.
  2. A high quality of design and site planning.
  3. Flexibility in development in order to provide an attractive, viable employment corridor.

This district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

**5.11.02** **Permitted uses.**

The following principal uses are permitted in the C-1 District:

1. Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment.
2. Child care center.
3. Dance studio, not including uses defined in Adult Establishment.
4. Meeting hall, not including uses defined in Adult Establishment.
5. Museum, art gallery.
6. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Apparel shop.
  - b. Appliance store.
  - c. Antique store.
  - d. Automobile parts and supply store.
  - e. Bakery shop (retail).
  - f. Barber and Beauty shop.
  - g. Bicycle shop.
  - h. Book store, not including uses defined in Adult Establishment.
  - i. Brew-on premises store.
  - j. Camera store.
  - k. Communication services.
  - l. Computer store.
  - m. Confectionery.
  - n. Dairy products sales.
  - o. Drug store.
  - p. Dry cleaning and laundry pickup.
  - q. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
  - r. Food Sales (Limited).
  - s. Food Sales (General).
  - t. Floral shop.
  - u. Mortuary.
  - v. Furniture store or showroom.
  - w. Gift and curio shop.

- x. Gunsmith.
  - y. Hardware store.
  - z. Hobby, craft, toy store.
  - aa. Jewelry store.
  - bb. Liquor store.
  - cc. Locksmith.
  - dd. Meat market, retail.
  - ee. Music retail store.
  - ff. Newsstands, not including uses defined in Adult Establishment.
  - gg. Paint store.
  - hh. Pet shop.
  - ii. Photographer.
  - jj. Picture framing shop.
  - kk. Reservation center.
  - ll. Restaurants, cafes and fast food establishments.
  - mm. Second hand stores.
  - nn. Service station with minor automobile repair services.
  - oo. Shoe store.
  - pp. Sporting goods.
  - qq. Stamp and coin stores.
  - rr. Tailors and dressmakers.
  - ss. Tanning salon.
  - tt. Tire store and minor automobile repair service.
  - uu. Travel agencies.
  - vv. Video store, not including uses defined in Adult Establishment.
- 7. Social club and fraternal organizations, not including uses defined in Adult Establishment.
  - 8. Telephone exchange.
  - 9. Telephone answering service.
  - 10. Public overhead and underground local distribution utilities.
  - 11. Publicly owned and operated facilities.
  - 12. Automobile service stations, but not including major body repair, the dismantling or wrecking of vehicles or the storage of damaged or inoperable vehicles.
  - 13. Sales, rental, and display of automobiles, trucks, campers, recreational vehicles, mobile homes, boats and farm implements, provided that all servicing and maintenance shall be conducted within an enclosed building.
  - 14. Mortuaries.
  - 15. Sound recording studios.
  - 16. Car washes.
  - 17. Garden supply and retail garden center.
  - 18. Churches and temples.
  - 19. Tavern and cocktail lounge, not including uses defined in Adult Establishment.
  - 20. Equipment and supply rental establishments and outdoor storage in conjunction with primary use.
  - 21. Health Clubs and tanning salon, not including uses defined in Adult Establishment.
  - 22. Health Recreation Facilities, not including uses defined in Adult Establishment.

**5.11.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-1 District as recommended and approved by the Planning Commission:



1. Recreational establishments.
2. Department Store.
3. Variety store, not including uses defined in Adult Establishment.
4. Amusement arcades.
5. Brew Pubs.
6. Coffee Kiosks.
7. Micro breweries when in conjunction with a restaurant.
8. Automated Teller Machines when not within the interior of a primary use.
9. Theater, indoor, not including uses defined in Adult Establishment.
10. Bowling center.
11. Business or trade school.
12. Commercial greenhouse.
13. Mail order services.
14. Pinball or video games business.
15. Animal hospital.
16. Self-storage units, provided:
  - a. Storage unit is an extension of an existing self-storage unit or facility.
  - b. The topography and access of the property will limit the development of identified commercial uses.
  - c. No outdoor storage.
  - d. Unit or facility provides perimeter fencing in accordance with this ordinance and a vegetative screen of at least six (6) feet in height and twenty (20) feet in width to any adjacent residential zoned property.
  - e. Lighting on site shall not be directed at or allowed to shine on any residential zoned property.
  - f. Applications for self-storage units under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its affect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and type of landscaping, and the location, size and number of signs.
  - g. Such use shall not be located adjacent to the intersection of two or more arterial streets.
  - h. The property shall have at least one boundary line that is adjacent to other property that is zoned I-1 Light Industrial or I-2 Heavy Industrial.
  - i. Such use shall not include storage of explosives or hazardous materials and shall be in accordance with the intent, purpose and spirit of this ordinance and the Comprehensive Development Plan of David City, Nebraska.
17. Event center, provided:
  - a. A conditional use permit would need to include specifics to the design and operation of the proposed center and individual activities, including, but not limited to, a detailed site plan and floor plan, a complete list of appointed or designated managers for each event at the center, and a complete description and duration of each event submitted to the city prior to each event.
  - b. Lighting on site shall not be directed at or allowed to shine on any residential zoned property.
  - c. Buildings utilized as event centers shall be accompanied by evidence concerning the feasibility of the proposed request and its affect on surrounding property and shall include a site plan defining the areas to

be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and type of landscaping, and the location, size and number of signs.

- d. All signage shall comply with the City's established regulations.
- 18. Convenience store with limited fuel sales.
- 19. Hotels and motels, including restaurants, convention and meeting facilities and other related uses, not including uses defined in Adult Establishment.
- 20. Shopping centers and retail trade centers.
- 21. Commercial Strip Shopping Center.
- 22. Outlet Shopping Center.
- 23. Commercial recreational activities such as golf putting courses and driving ranges, drive-in movie theaters, and other similar outdoor recreational uses.
- 24. Recreational vehicle parks and campgrounds.
- 25. Truck stops with complete truck services.
- 26. Retail sales of agriculture supplies requiring outdoor storage of such agricultural supplies.
- 27. Trucking terminals.
- 28. Motor vehicle body shops.
- 29. Retail building material sales; provided that the following minimum standards are present:
  - a. All lumber shall be enclosed with the primary structure.
  - b. All year round landscaping materials shall be enclosed within the primary structure.
- 30. Lawn Care. (Ord. No. 1068, 2-13-08)

**5.11.04 Permitted Accessory Uses:**

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Parking as allowed in Article 6
- 3. Signs allowed in Article 7.
- 4. Landscaping as required by Section 8.09.
- 5. Fireworks stands provided the criteria are met as established by the city through separate ordinances.

**5.11.05 Permitted Temporary Uses**

Temporary Uses require a permit from the City of David City and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four temporary uses per calendar year. Such uses shall not last more than two weeks per use, except as provided for hereafter.

- 1. Temporary greenhouses.
- 2. Temporary structures as needed for sidewalk and other outdoor sales events.
- 3. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.
- 4. Temporary structure for festivals or commercial events.

**5.11.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	15,000	100'	1	2	2	45'	60%
Permitted Conditional Uses	15,000	100'	1	2	2	45'	60%

1. There shall be a minimum front yard of not less than 100 feet from property line along a state highway or city street classified as an arterial, 50 feet from the property line along a city street classified as a collector, 25 feet from the property line along a city street classified as a local street or private road, and at least 100 feet from the road right-of-way along a county road. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.
2. The side and rear yard shall be zero feet where the lot line abuts other commercial or industrial district lot lines. In any instance where a side or rear lot line abuts a residential district, the minimum yard shall be 20 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

**5.11.07 Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within 15 feet of such district.
2. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 8.09.04.
3. A landscape buffer of at least 15 feet in depth shall be provided adjacent to the front property line along a highway or a street classified as an arterial. When a lot frontage abuts a street that is classified as a collector, local street, or private road, a landscape buffer at least ten feet in depth shall be provided at the front property line.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**Section 5.12 C-2 Downtown Commercial District**

**5.12.01** **Intent:** The Downtown Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community. In addition, this district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

**5.12.02 Permitted Uses.**

The following principal uses are permitted in the C-2 District:

1. Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment.
2. Child care center.
3. Dance studio, not including uses defined in Adult Establishment.
4. Meeting hall, not including uses defined in Adult Establishment.
5. Museum, art gallery.
6. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Apparel shop.
  - b. Appliance store.
  - c. Antique store.
  - d. Automobile parts and supply store.
  - e. Bakery shop (retail).
  - f. Barber and Beauty shop.
  - g. Bicycle shop.
  - h. Book store, not including uses defined in Adult Establishment.
  - i. Brew-on premises store.
  - j. Camera store.
  - k. Clothing services, including dry cleaning, Laundromats, etc.
  - l. Communication services, including newspaper, radio, television, and photocopying.
  - m. Computer store.
  - n. Confectionery.
  - o. Dairy products sales.
  - p. Drug store.
  - q. Dry cleaning and laundry pickup.
  - r. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
  - s. Floral shop.
  - t. Mortuary.
  - u. Food Sales (Limited).
  - v. Food Sales (General).
  - w. Furniture store or showroom.
  - x. Gift and curio shop.
  - y. Gunsmith.
  - z. Hardware store.
  - aa. Hobby, craft, toy store.
  - bb. Jewelry store.
  - cc. Liquor store.
  - dd. Locksmith.

- ee. Meat market, retail.
  - ff. Music retail store.
  - gg. Music studio.
  - hh. Newsstands, not including uses defined in Adult Establishment.
  - ii. Paint store.
  - jj. Pet shop.
  - kk. Photographer.
  - ll. Picture framing shop.
  - mm. Reservation center.
  - nn. Restaurants, cafes and fast food establishment.
  - oo. Second hand stores.
  - pp. Shoe store.
  - qq. Sporting goods.
  - rr. Stamp and coin stores.
  - ss. Tailors and dressmakers.
  - tt. Tanning salon.
  - uu. Travel agencies.
  - vv. Video store, not including uses defined in Adult Establishment.
- 7. Social club and fraternal organizations, not including uses defined in Adult Establishment.
  - 8. Telephone exchange.
  - 9. Telephone answering service.
  - 10. Theater, indoor, not including uses defined in Adult Establishment.
  - 11. Public overhead and underground local distribution utilities.
  - 12. Publicly owned and operated facilities.
  - 13. Human health care services, but excluding hospitals.
  - 14. Indoor commercial recreational facilities.
  - 15. Tavern and cocktail lounge, not including uses defined in Adult Establishment.

**5.12.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-2 District as recommended and approved by the Planning Commission:

- 1. Variety store, not including uses defined in Adult Establishment
- 2. Amusement arcades.
- 3. Bowling center.
- 4. Brew Pubs.
- 5. Micro breweries when in conjunction with a restaurant.
- 6. Coffee Kiosks.
- 7. Automated Teller Machines when not within the interior of a primary use.
- 8. Business or trade school.
- 9. Garden supply and retail garden center.
- 10. Commercial greenhouse.
- 11. Mail order services.
- 12. Pinball or video games business.
- 13. Convenience store with limited fuel sales.
- 14. Residences in conjunction with the principal use when located above the ground floor.
- 15. Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 16. Retail building material sales; provided that the following minimum standards are present:

- a. All lumber shall be enclosed with the primary structure.
- b. All year round landscaping materials shall be enclosed within the primary structure.
- 17. Hotels and motels.
- 18. Sales, rental, and display of automobiles, trucks, campers, recreational vehicles, mobile homes, boats and farm implements, provided that all servicing and maintenance shall be conducted within an enclosed building.
- 19. Car wash.
- 20. Tire store and minor automobile repair service.
- 21. Service station with minor automobile repair services.
- 22. Commercial Fuel Pumps

**5.12.04 Permitted Temporary Uses**

Temporary Uses require a permit from the City of David City and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four temporary uses per calendar year. Such uses shall not last more than two weeks per use, except as provided for hereafter.

- 1. Temporary greenhouses.
- 2. Temporary structures as needed for sidewalk and other outdoor sales events.
- 3. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.
- 4. Temporary structure for festivals or commercial events.

**5.12.05 Permitted Accessory Uses**

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Parking as permitted in Article 6.
- 3. Signs allowed in Article 7.
- 4. Landscaping as required by Section 8.09.
- 5. Fireworks stands, provided the criteria are met as established by the city through separate ordinances.
- 6. Radio and television satellite signal receiving antennas, provided such receiving units are situated in the rear yard or on the roof.

**5.12.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	-	-	-	1	1	60'	100%
Permitted Conditional Uses	-	-	-	1	1	60'	100%

<sup>1.</sup> No limitations, provided the minimum side or rear yard abutting a residential district shall be ten feet.

**5.12.07 Use Limitations:**

- 1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 8.09.04.
- 2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**Section 5.13 I-1 Light Industrial District.**

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

**5.13.02 Permitted Uses.**

The following principal uses are permitted in the I-1 District:

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Laboratories.
3. Manufacture and assembly of electrical and electronic appliances.
4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
5. Manufacture of light sheet metal products including heating and ventilation equipment.
6. Printing and publishing business.
7. Stone and monument works.
8. Public local distribution and main transmission utilities.
9. Warehouses and wholesale businesses.
10. Building materials yards with enclosed and screened storage areas.
11. Highway maintenance yards or buildings.
12. Self-storage units.
13. Veterinary clinic and animal hospitals.
14. Outdoor storage facilities.
15. Publicly owned and operated facilities.
16. Special and vocational educational and training facilities.
17. Construction and heavy equipment sales and service.
18. Farm implement sales and service.
19. Truck terminal and dock facilities to include truck washing.
20. Auto body repair.
21. Car wash.
22. Service station with minor automobile repair services.
23. Tire store and minor automobile repair service.
24. Food locker plants.
25. Utility substations, terminal facilities, and reservoirs.
26. Auction Sales.
27. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use.
28. Cabinetry millwork.
29. Indoor recreational facility.
30. Local, county, state and regional correctional facilities.

**5.13.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended and approved by the Planning Commission:

1. Radio, television and communication towers and transmitters, as per Section 8.02.

2. Fertilizer transmission lines.
3. Research facilities.

**5.13.04 Permitted Accessory Uses**

1. Buildings and uses customarily incidental to the permitted uses, including general offices, sales rooms, medical and recreational facilities associated with industrial use.
2. Parking as permitted in Article 6.
3. Signs allowed in Article 7.
4. Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work.
5. Landscaping as required by Section 8.09.

**5.13.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100'	1	2	2	45'	70%
Permitted Conditional Uses	10,000	100'	1	2	2	45'	70%

1. There shall be a minimum front yard of not less than 100 feet from property line along a state highway or city street classified as an arterial, 50 feet from the property line along a city street classified as a collector, 25 feet from the property line along a city street classified as a local street or private road, and at least 100 feet from the road right-of-way along a county road. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

2. The side and rear yard shall be ten feet where the lot line abuts other commercial or industrial district lot lines. In any instance where a side or rear lot line abuts a residential district, the minimum yard shall be 50 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

**5.13.06 Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 8.09.04.
2. A landscape buffer of at least 15 feet in depth shall be provided adjacent to the front property line along a highway or a street classified as an arterial. When a lot frontage abuts a street that is classified as a collector, local street, or private road, a landscape buffer at least ten feet in depth shall be provided at the front property line.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**5.13.07 Performance Standards:**

See Section 8.04 of the Supplemental Regulations.



**Section 5.14 I-2 Heavy Industrial District.**

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

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

**5.14.02 Permitted Uses.**

The following principal uses are permitted in the I-2 District:

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Laboratories.
3. Manufacture and assembly of electrical and electronic appliances.
4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
5. Manufacture of light sheet metal products including heating and ventilation equipment.
6. Printing and publishing business.
7. Stone and monument works.
8. Public local distribution and main transmission utilities.
9. Warehouses and wholesale businesses.
10. Contractors and construction yards.
11. Highway maintenance yards or buildings.
12. Self storage units.
13. Bottling works.
14. Dairy products processing.
15. Agricultural uses excluding feedlots, but including grain elevators, feed mills, and fertilizer plants and storage.
16. Veterinary clinic and animal hospitals.
17. Ice Plant.
18. Laundry and dry cleaning plant.
19. Manufacturing, compounding, processing, packaging or treatment of articles or merchandising from previously prepared materials such as bone, cloth, aluminum, cork, fiber, leather, glass, plastic, paper, stones, tin, rubber, and paint.
20. Millwork, woodwork.
21. Storage of farm and agricultural products.
22. Tire retreading and recapping.
23. Processing of food products.
24. Publicly owned and operated facilities.
25. Special and vocational educational and training facilities.
26. Farm implement sales and service.
27. Construction and heavy equipment sales and service.
28. Auction Sales.
29. Research facilities.
30. Truck terminal and dock facilities to include truck washing.
31. Auto body repair.

32. Service station with minor automobile repair services.
33. Tire store and minor automobile repair service.
34. Car wash.
35. Storage or processing of non-hazardous and non-explosive material.
36. Sand, gravel, or aggregate washing, screening or processing.

**5.14.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-2 District as recommended and approved by the Planning Commission:

1. Radio, television and communication towers and transmitters, as per Section 8.02.
2. Fertilizer transmission lines.
3. Utility substations, terminal facilities, and reservoirs.
4. Auto Salvage.
5. Central mixing plant for concrete, asphalt, or paving material.
6. Storage of bulk petroleum and flammable products.
7. Storage or processing of explosive material.
8. The manufacturing, compounding, processing, extruding, painting, coating and assembly of steel, metal, vinyl, plastic, paper and similar products and related outdoor and indoor storage activities.
9. Adult Entertainment establishments.
  - a. No Adult business shall be closer than 500 feet to any similar use and no closer than 500 feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use. In addition, no Adult establishment shall be located within the Corridor Overlay or within 500 feet of said Overlay Corridor.
  - b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
  - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - d. No adult business shall be open for business between the hours of one am and six a.m.
  - e. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
  - f. Such use shall not impair an adequate supply of light and air to surrounding property.
  - g. Such use shall not unduly increase congestion in the streets or public danger of fire and safety.
  - h. Any explicit signs shall not be seen from any point off-premises.
  - i. Such use shall not diminish or impair established property values in adjoining or surrounding property.

- j. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of David City, Nebraska.
- k. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
- l. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
- m. Prohibited Activities of Adult Businesses
  - i. No adult business shall employ any person less than 18 years of age.
  - ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age.
  - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
  - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

**5.14.04 Permitted Accessory Uses**

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Parking as permitted in Article 6.
- 3. Signs allowed in Article 7.
- 4. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.
- 5. Live-in quarters used by live-in watchman or custodians during periods of construction.
- 6. Landscaping as required by Section 8.09.

**5.14.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100'	1	2	2	60'	70%
Permitted Conditional Uses	10,000	100'	1	2	2	60'	70%

<sup>1</sup> There shall be a minimum front yard of not less than 100 feet from property line along a state highway or city street classified as an arterial, 50 feet from the property line along a city street classified as a collector, 25 feet from the property line along a city street classified as a local street or private road, and at least 100 feet from the

road right-of-way along a county road. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

- <sup>2</sup> The side and rear yard shall be ten feet where the lot line abuts other commercial or industrial district lot lines. In any instance where a side or rear lot line abuts a residential district, the minimum yard shall be 50 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

**5.14.06 Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 8.09.04.
2. A landscape buffer of at least 15 feet in depth shall be provided adjacent to the front property line along a highway or a street classified as an arterial. When a lot frontage abuts a street that is classified as a collector, local street, or private road, a landscape buffer at least ten feet in depth shall be provided at the front property line.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**5.14.06 Performance Standards:**

See Section 8.04 of the Supplemental Regulations.

**Section 5.15 FS Flexible Space Mixed Use District**

**5.15.01 Intent:** This district is established to provide space for a range of commercial, office, light industrial, and production facilities. The Flex Space District is also intended to provide support uses, including complimentary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and policies of the community.

**5.15.02 Permitted Uses.**

The following principal uses are permitted in the FS District:

1. Retail use.
  - a. Examples of possible retail uses include: gas stations, general retail, restaurants, catering, shops, malls, nightclubs, lodges, motels, hotels, commercial recreational activities.
2. Office buildings.
  - a. Examples of possible office building uses include: medical, professional, and service.
3. Community colleges, colleges, or other post-secondary education facilities.
4. Private schools.
5. Nonprofit religious, educational and philanthropic institutions.
6. Farming and the sale of farm produce.

**5.15.03 Conditional Uses.**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the FS District as recommended and approved by the Planning Commission:

1. Warehouse and distribution.
2. Hardware equipment and supply.
3. Storage facilities.
  - a. Self-storage and storage of recreational vehicles, automobiles, boats;
4. Sales facilities.
  - a. Automobile, boats, truck, camper, agriculture implements.
5. Truck stop facilities with complete truck services.
6. Trucking terminals.
7. Veterinary clinic and animal hospitals
8. Recreation vehicle park and campground.
9. Heliports and airports.
10. Production, manufacturing, assembly, processing, or transportation of goods and materials, **except:**
  - a. The refining, distillation, or manufacture of:
    - i. Acids or alcohols.
    - ii. Chemicals.
    - iii. Petroleum products.
    - iv. Cement, lime, gypsum, or plaster of paris.
    - v. Fertilizer.
  - b. The operation of:
    - i. Blast furnaces, coke ovens, smelting or ore reduction works.
    - ii. Boiler works.
    - iii. Forges.
    - iv. Rolling mills.
    - v. Yeast plants.
  - c. Production, manufacture, processing, or transportation of toxic,

- d. radioactive, flammable, or explosive materials.
- d. Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl rendering fat; distillation of bones, coals, or wood
- e. Dumping or reduction of garbage, offal, or dead animals
- f. Mining, quarrying, stone willing, or rock crushing
- g. Extraction of sand, gravel, or soil

**5.15.04 Permitted Temporary Uses:**

Temporary Uses require a permit from the City of David City and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two weeks per use, except as provided for hereafter.

1. Temporary greenhouses.
2. Temporary structures as needed for sidewalk and other outdoor sales events.
3. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.
4. Temporary structure for festivals or commercial events.

**5.15.05 Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as allowed in Article 6.
3. Signs allowed in Article 7.
4. Landscaping as required by Section 8.09.
5. Fireworks stands provided the criteria are met as established by the city through separate ordinances.

**5.15.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100'	1	2	2	45'	70%
Permitted Conditional Uses	10,000	100'	1	2	2	45'	70%

<sup>1</sup> There shall be a minimum front yard of not less than 100 feet from property line along a state highway or city street classified as an arterial, 50 feet from the property line along a city street classified as a collector, 25 feet from the property line along a city street classified as a local street or private road, and at least 100 feet from the road right-of-way along a county road. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

<sup>2</sup> The side and rear yard shall be ten feet where the lot line abuts other commercial or industrial district lot lines. In any instance where a side or rear lot line abuts a residential district, the minimum yard shall be 50 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

**5.15.07 Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 8.09.04.
2. A landscape buffer of at least 15 feet in depth shall be provided adjacent to the front property line along a highway or a street classified as an arterial. When a lot frontage abuts a street that is classified as a collector, local street, or private

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- road, a landscape buffer at least ten feet in depth shall be provided at the front property line.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
  4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**5.15.08 Performance Standards:**

See Section 8.04 of the Supplemental Regulations.

**Section 5.16 AH Airport Hazard (Overlay District)**

**5.16.01 Intent:**

This overlay district establishes certain regulations over an identified airport hazard area which is located partially in the zoning jurisdiction of David City and partially in the jurisdiction of Butler County. The David City Joint Airport Zoning Board has been created to utilize this overlay district regulate the use, construction and planting of structures and plant material in the identified area that may be a hazard to the safe operation of the David City Airport.

**5.16.02 Location, Boundaries, Zones and Height Restrictions:**

The vicinity of the David City Airport, located in Section 31, Township 15 North, Range 3 East, in Butler County, Nebraska, from the boundaries of such airport, to a distance of three statute miles in all directions from the adjacent boundaries of the airport, is hereby declared an airport hazard area and is hereby zoned as follows:

1. Hazard Area Description.

The Hazard Area consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones.

2. Zone Descriptions.

a. The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and 200 feet beyond the end of each runway and shall be 1000 feet in width for each instrument runway or landing strip and 500 feet in width for all other runways and landing strips.

b. The Approach Zones shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing strip and 20 feet of width for each 100 feet of horizontal length for all other runways.

The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing strip.

The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.

c. The Transition Zones shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of contiguous inner areas of approach zones and the outer limits of the Transition Zones; said outer limits of the Transition Zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series



- of contiguous planes originating from bases established by the Operation Zones of the Hazard Area and the edges of adjacent inner areas of approach zones; said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one foot vertically to seven feet horizontally to the lines of intersection previously referred to.
- d. The Turning Zones shall comprise all portions of the Hazard Area not contained in the Operation Zones, Approach Zones and in the Transition Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three statute miles from the nearest points along the airport property lines.
3. Height Restrictions.  
No building, transmission line, communication line, pole, tree, smoke-stack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:
- a. In Inner Areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing strip in excess of 1/50, and all other runways or landing strips in excess of 1/40 of the distance from the end of the approach zone (the end nearest the runway or landing strip) to said structure or object;
  - b. In the Outer Area of Approach Zones and in Turning Zones to a height in excess of 150 feet above the elevation at the end or proposed end of the nearest runway or landing strip;
  - c. In the Transition Zones to a height above the planes forming the transition slopes; and
  - d. In the existing or proposed Operation Zones to a height above the existing or proposed finished grade of said runways or landing strips or surface of the ground.

**5.16.03 Location Sketch and Zoning Map.**

The boundaries, operation zones, approach zones, transition zones, and turning zones of said airport are as indicated on the Official Zoning Map of David City (or on the Zoning Map generated by the Nebraska Department of Aeronautics under drawing number ZN-DC-02) which is hereby made as part of these regulations, a copy of which shall at all times be on file in the office of the City Clerk, David City, Nebraska.

**5.16.04 Permit Required, Exceptions, Application Forms, and Permit Fees.**

1. Permit Required.  
It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth, within the boundary of the zoned area of said airport without first obtaining a "permit" from the Administrative Agency (David City Zoning Administrator).
2. Exceptions.  
In the Outer Area of Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting which is not higher than 75 feet above the elevation of the end of the nearest runway or landing strip.
3. Application Forms.  
Application for a permit as required under these regulations shall be made upon a form to be available in the office of the City Clerk and shall indicate the

approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting. (Mean Sea Level Elevation)

4. Permit Fees.

The fee for each permit issued shall be established and made part of the Master Fee Schedule adopted by the city council by separate ordinance. Such airport permit fee received by the Administrative Agency (David City Zoning Administrator) shall be submitted to the City Treasurer for deposit in the Airport Revenue Fund. No fee shall be charged for a permit for any construction or repair whose estimated cost is less than \$100.

**5.16.05 Non-Conforming Structures.**

Within the zoned area as hereinafter defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before such regulations were first adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 80% or more of their original condition, or abandoned for a period of 12 months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the zone regulated.

**5.16.06 Marking of Non-Conforming Structures.**

Whenever the Administrative Agency (David City Zoning Administrator) shall determine, or shall be notified by the David City Joint Airport Zoning Board or the Nebraska Department of Aeronautics, that a specific non-conforming structure or object exists and has existed prior to the passage of the adopted airport hazard regulations and within the zoned area hereinbefore described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Administrative Agency (David City Zoning Administrator) and shall within a reasonable time permit the marking thereof by suitable lights or other signals designated by the said agency and based on the recommendations of the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lessor of said premise.

**5.16.07 Administrative Agency.**

The Zoning Administrator of the City of David City, Nebraska, shall administer and enforce these regulations, and shall be in the administrative agency provided for in Section 3-319, Revised Statutes 1943, and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act, until otherwise ordered by the David City Joint Airport Zoning Board.

**5.16.08 Board of Zoning Adjustment.**

The Board of Zoning Adjustment of the City of David City, Nebraska, shall be the Board of Zoning Adjustment with respect to these regulations, to have and exercise the powers conferred by Section 3-320, Revised Statutes 1943, and such other powers and duties as are conferred and imposed by law.

**ARTICLE 6: PARKING**

**Section 6.01 Off-Street Automobile Storage**

- 6.01.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.
- 6.01.02 In all districts except R-1, R-2, R-3 and RM, if vehicle storage space or standing space required in section 6.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the City Council, the City Council may permit such space to be provided on other off-street property, provided such property lies within the same zoning district and lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. In Districts R-1, R-2, R-3, and RM, required off-street parking for residential use shall be provided on the lot on which is located the use to which the parking pertains.
- 6.01.03 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 6.01.04 No parking space is permitted in the required front yard in any district except as follows:  
1. Except for single-family residences located in the TA, RA or R-1 districts, the drive and parking in the front yard of a single-family residence is permitted for passenger vehicles and other licensed vehicles outside of an enclosed structure on a concrete driveway or its equivalent under the following conditions:  
a. The width of such parking areas shall not exceed 35 percent of the width of the front yard.  
b. The parking area shall not be less than two feet from and parallel to the side lot line and not less than two feet from the front property line.
- 6.01.05 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 6.01.06 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
- 6.01.07 The off-street parking requirements shall not apply to uses within the C-2 Downtown Commercial District.
- 6.01.08 Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances as provided below:

**TYPES OF OPERATION**  
Financial Institution – Electronic Teller

**MINIMUM STACKING SPACE**  
Two vehicles per lane\*

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Financial Institution – Personal Teller	Three vehicles per window or kiosk*
Car Wash – Self Service	Two vehicles per bay at entrance*
	One vehicle per bay at exit
Car Wash – Automatic / Conveyor	200 feet per bay at entrance*
	One vehicle per bay at exit
Drive-through Restaurant	Four vehicles per window*
Coffee Kiosk	
- Drive side service	Four vehicles per lane*
- Passenger side service	Two vehicles per lane*
Drive-through Pharmacy	Two vehicles per lane*
Service Stations	
- Service Islands	Two vehicles per pump lane*
- Service bay	One vehicle per bay*
- Quick lube / Oil change "starting gate design"	Two vehicles per bay*
- (4 or more pump islands side by side, 18 feet apart	One vehicle per lane*
Gated parking lot entrance	One vehicle per gate
Garage Unit or Overhead door (Major streets only)	One vehicle per door
Other uses	Two vehicles per lane being serviced

\* Stacking requirements are in addition to vehicle being serviced.

Required vehicle stacking shall not block driveways or required parking stalls and shall not be located in side, front, or rear yards where parking stalls are prohibited. Each vehicle stacking unit shall be 22 feet long. Required stacking may be reduced by approval of the City Council following site plan review by the Planning Commission. Site plan review must demonstrate that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during peak hours of operation.

6.01.09 Requirements for types of buildings and uses not specifically listed herein shall be determined by the City Council, after receiving a report and recommendation from the Planning Commission, based upon comparable uses listed.

6.01.10 Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side yard or rear yard.

**Section 6.02 Schedule of Minimum Off-Street Parking and Loading Requirements**

Use	Parking Requirements (spaces)	Loading Requirements
<b>Adult entertainment establishments</b>	1 per two persons of licensed capacity	None required
<b>Agricultural Sales / Service</b>	1 per 500 s.f. of gross floor area	1 per establishment
<b>Assisted-living facilities</b>	1 per dwelling unit plus 1 per employee on the largest shift	1 space per rental unit
<b>Automotive Rental / Sales</b>	1 per 500 s.f. of gross area including any and all display area	1 per establishment
<b>Automotive Servicing</b>	3 per repair stall	None required
<b>Bars, Taverns, Nightclubs</b>	Parking equal to 30 percent of licensed capacity	2 spaces per establishment
<b>Boarding Houses / Bed and Breakfasts</b>	1 per rental units	None required
<b>Bowling Alleys</b>	4 per alley	1 space per establishment
<b>Campground</b>	1 per camping unit	None required
<b>Churches, Synagogues, and Temples</b>	1 per four seats in main worship area	None required
<b>Clubs, fraternal organizations</b>	1 per 500 s.f. of gross floor area	None required
<b>College/University</b>	8 per classroom plus one per employee	2 spaces per structure
<b>Commercial Recreation</b>	1 per four persons of licensed capacity	1 per establishment
<b>Communication Services</b>	1 per 500 s.f. of gross floor area	1 per establishment
<b>Construction Sales / Service</b>	1 per 500 s.f. of gross floor area	1 per establishment
<b>Convalescent, Nursing Home Services</b>	1 per three beds plus one per employee on the largest shift	2 space per structure
<b>Day Care</b>	1 per employee plus 2 space or loading stall per each ten persons of licensed capacity	None required
<b>Duplex</b>	2 per dwelling unit	1 per structure

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<b>Educational Uses, Primary facilities</b>	2 per classroom	2 spaces per structure
<b>Educational Uses, Secondary facilities</b>	10 per classroom plus one per employee on largest shift	2 spaces per structure
<b>Equipment Rental / Sales</b>	1 per 500 s.f. of gross floor area	1 Space
<b>Food Sales (general)</b>	1 per 200 s.f. of gross floor area	2 per establishment
<b>Food Sales (limited)</b>	1 per 300 s.f. of gross floor area	1 per establishment
<b>Funeral Homes and Chapels</b>	8 per reposing room	2 spaces per establishment
<b>General Retail Sales establishments</b>	1 per 200 s.f. of gross floor area	1 per establishment
<b>Group Care Facility</b>	1 per four persons of licensed capacity	2 space per structure
<b>Group Home</b>	1 per four persons of licensed capacity	2 space per structure
<b>Guidance Services</b>	1 per 300 s.f. of gross floor area	None required
<b>Hospitals</b>	1 per two licensed beds	3 spaces per structure
<b>Hotels and Motels</b>	1 per rental unit, plus 1 per employee on largest shift.	None required
<b>Industrial Uses</b>	.75 times the maximum number of employees during the largest shift	2 spaces per establishment
<b>Laundry Services</b>	1 per 200 s.f. of gross floor area	None required
<b>Libraries</b>	1 per 500 s.f. of gross floor area	1 per structure
<b>Medical Clinics</b>	5 per staff doctor, dentist, chiropractor	None required
<b>Mobile Home Park</b>	2 per dwelling unit	None required
<b>Multi-family / Apartments</b>	1 per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
<b>Offices and Office Buildings</b>	1 per 200 s.f. of gross floor area	None required
<b>Residential (Single-family, attached and detached)</b>	3 per dwelling unit with 1 required to be enclosed	None required
<b>Restaurants (General)</b>	Parking equal to 30 percent of licensed capacity	2 spaces per establishment
<b>Restaurants w/ drive-thru</b>	Greater of: 1 per 40 s.f. of dining area, or 1 per 150 s.f. of gross floor area	1 per establishment
<b>Roadside stands</b>	4 per establishment	None required
<b>Service Oriented Establishments</b>	1 per 200 s.f. of gross floor area	1 per establishment
<b>Theaters, Auditoriums, Assembly Halls</b>	1 per four persons of licensed capacity	1 space per establishment
<b>Veterinary Establishments</b>	3 per staff doctor	None required
<b>Wholesaling / Distribution Operations</b>	1 per two employees on the largest shift	2 spaces per establishment

**6.02.01 Bicycle Parking Requirements:**

Each parking facility proving 50 spaces or more shall provide accommodations for bicycles as follows:

50-100 parking stalls	Five bicycle spaces
100 -150 parking stalls	Eight bicycle spaces
150 – 200 parking stalls	10 bicycle spaces
Over 200 parking stalls	Two additional for each 50 parking stalls

**Section 6.03 Off-Street Parking: Shared Parking Requirements**

**6.03.01** Notwithstanding the provisions of Section 6.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center of the development pattern is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and City Council.

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

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

<b>Total Parking Spaces</b>	<b>Required Minimum Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2

51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

- 6.04.02 Access aisles adjacent to accessible spaces shall be 60 inches wide minimum. However, one in every eight accessible spaces (1:8), but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 6.04.09 of this Ordinance. The vertical clearance at such spaces shall comply with 6.04.10 of this Ordinance. All such spaces may be grouped on one level of a parking structure.
- 6.04.03 Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
- 6.04.04 Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2 percent) in all directions.
- 6.04.05 If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 6.04.11 of this Ordinance.
- 6.04.06 At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 6.04 of this Ordinance shall be provided in accordance with 6.04.01 of this Ordinance; except as follows:
1. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
  2. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
- 6.04.07 Valet parking facilities shall provide a passenger loading zone complying with 6.04.11 of this Ordinance located on an accessible route to the entrance of the facility. Sections 6.04.01 and 6.04.03, of this Ordinance do not apply to valet parking.
- 6.04.08 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
  2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
- 6.04.09 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 6.04.02 shall have an additional

sign with the words "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

6.04.10 Minimum vertical clearance of 114 inches shall be provided at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 6.04.02, minimum vertical clearance of 98 inches shall be provided at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

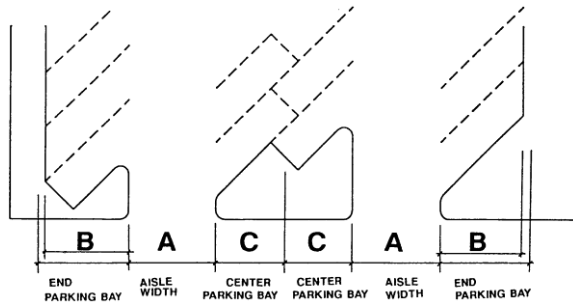
6.04.11 Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Passenger loading zones and access aisles shall be level with surface slopes not exceeding 1:50 (2 percent) in all directions.

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

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

**Parking Configuration**

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



6.05.02 Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.

6.05.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

6.05.04 A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit.

The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

1. Delineation of individual parking and loading spaces.
2. Circulation area necessary to serve spaces.
3. Access to streets and property to be served.
4. Curb cuts.
5. Dimensions, continuity, and substance screening.
6. Grading, drainage, surfacing and subgrade details.
7. Delineation of obstacles to parking and circulation in finished parking area.
8. Specifications as to signs and bumper guards.
9. Other pertinent details.

6.05.05 Design Requirements for parking Lots

1. Areas used for standing and maneuvering of vehicles shall be composed of a suitable surface material, to be reviewed and approved by the Planning Commission and City Council.
2. Said surfacing shall be maintained adequately for all weather use and drained in a manner to avoid the flow of water across sidewalks.
3. The structural load capacity of the surfacing should be analyzed and designed accordingly. In some instances, thicker or reinforced sections may be desirable.
4. Artificial lighting, when provided, shall be deflected so the light does not create a shine or glare in any residential district or adjacent residential use.
5. Access aisles shall be a sufficient width for all vehicles to turn and maneuver.
6. Except for dwelling units, parking spaces shall be located and served by a driveway that will not require any backing movements or other maneuvering within a street right-of-way other than an alley.
7. Drainage of all parking lots shall be designed to develop proper site drainage. Proper site drainage is required to dispose of all storm water that is accumulated on the site.
8. The completion schedule for constructing the parking lot shall be provided to the City as part of the application. The schedule must be reviewed and agreed to by the City prior to construction. Said schedule shall be reasonable for all parties and the completion time shall be followed by the applicant. Variations to the schedule may be granted only in the case of inclement weather delays.



**ARTICLE 7: SIGNS**

**Section 7.01 General Conditions**

**7.01.01 Purpose**

The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. These sign regulations are adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the zoning ordinance.

**7.01.02 Applicability**

A sign may be erected, placed, established, painted, created, or maintained within the city and the city's extraterritorial zoning jurisdiction only in conformance with the standards, procedures, exemptions and other requirements of these sign regulations. All signs constructed, erected, modified or moved after the effective date of this ordinance shall comply with the regulations herein, unless expressly exempted.

**7.01.03 Definitions and Interpretation**

Words and phrases used in this ordinance shall have the meanings set forth in Article 2. Principles for computing sign area and sign height are contained in the following section.

**7.01.04 Computations**

**1. Computation of Area of Individual Signs**

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

**2. Computation of Area of Multi-faced Signs**

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

**3. Computation of Height**

The height of a sign shall be computed as the distance from the grade at the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be from finished grade. Any berms shall be construed to be a part of the sign base and added to the overall height of the sign.

**Section 7.02 Regulations and Requirements**

**7.02.01 Sign Schedules**

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

<u>Zoning District</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-M</u>	<u>C-1</u>	<u>C-2</u>	<u>I-1</u>	<u>I-2</u>	<u>FS</u>
<b>Sign Type</b>										
Advertising	+	-	-	-	-	+	+	+	+	+
Animated	-	-	-	-	-	C	-	C	C	C
Announcement	+	+	+	+	+	+	+	+	+	+
Architectural Canopy	+	-	-	-	-	+	+	+	+	+
Banner	+	-	-	-	-	+	+	+	+	+
Changeable Copy	+	-	-	-	-	+	+	+	+	+
Destination	+	+	+	+	+	+	+	+	+	+
Electronic Message Board	+	-	-	-	-	+	+	+	+	+
Flashing	-	-	-	-	-	-	-	-	-	-
Ground	C	C	C	C	C	+	+	+	+	+
Illuminated	C	-	-	-	-	+	+	+	+	+
Incidental	+	+	+	+	+	+	+	+	+	+
Marquee	-	-	-	-	-	+	+	+	+	+
Nameplate	C	+	+	+	+	+	+	+	+	+
Off-Premises	C	-	-	-	-	C	-	C	C	C
On-Premises	+	-	-	-	-	+	+	+	+	+
Pennant	+	-	-	-	-	+	+	+	+	+
Pole	-	-	-	-	-	C	C	C	C	C
Projecting	+	-	-	-	-	+	+	+	+	+
Portable	T	T	T	T	T	T	T	T	T	T
Real Estate	+	+	+	+	+	+	+	+	+	+
Roof	+	-	-	-	-	+	+	+	+	+
Roof-Integrated	+	-	-	-	-	+	+	+	+	+
Subdivision	C	C	C	C	C	C	C	C	C	C
Suspended	+	-	-	-	-	+	+	+	+	+
Temporary	T	T	T	T	T	T	T	T	T	T
Wall	+	-	-	-	-	+	+	+	+	+
Window	+	-	-	-	-	+	+	+	+	+

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

**7.02.02 Height, Size, Number and Setback Requirements.**

- Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule. Setbacks for any permanent freestanding sign shall be ten feet from the property line and/or street/road right-of-way, whichever is greater. No signs shall extend into the street/road right-of-way unless provided for herein. All signs shall have a vertical clearance of nine



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Max. Square Ft.	32	32	32	32	32	32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Real Estate</b>										
Max. Square Ft.	32	6	6	6	6	32	32	32	32	32
Max. Height Ft.	4	-	-	-	-	4	4	4	4	4
Max. Number	2	1	1	1	1	1	1	1	1	1
<b>Roof</b>										
Max. Square Ft.	250	-	-	-	-	250	250	250	250	250
Max. Height Ft.	45	-	-	-	-	45	45	45	45	45
Max. Number	1	-	-	-	-	1	1	1	1	1
<b>Roof-Integrated</b>										
Max. Square Ft.	250	-	-	-	-	250	250	250	250	250
Max. Height Ft.	45	-	-	-	-	45	45	45	45	45
Max. Number	1	-	-	-	-	1	1	1	1	1
<b>Zoning District</b>										
	<b>TA</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-M</b>	<b>C-1</b>	<b>C-2</b>	<b>I-1</b>	<b>I-2</b>	<b>FS</b>
<b>Subdivision</b>										
Max. Square Ft.	500	500	500	500	500	500	500	500	500	500
Max. Height Ft.	35	35	35	35	35	35	35	35	35	35
Max. Number	1	1	1	1	1	1	1	1	1	1
Max. Lot area s.f.	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
<b>Suspended</b>										
Max. Square Ft.	20	-	-	-	-	20	20	20	20	20
Max. Height Ft.	10	-	-	-	-	10	10	10	10	10
Max. Number	1	-	-	-	-	1	1	1	1	1
<b>Temporary</b>										
Max. Square Ft.	50	32	32	32	32	50	50	50	50	50
Max. Height Ft.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Max. Number	3	1	1	1	1	3	3	3	3	3
<b>Wall</b>										
Max. Square Ft.	200 <sup>1</sup>	-	-	-	-	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>
Max. Height Ft.	15	-	-	-	-	45	45	45	45	45
Max. Number	1	-	-	-	-	1	1	1	1	1
<b>Window</b>										
Max. Square Ft.	200 <sup>1</sup>	-	-	-	-	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>
Max. Height Ft.	15	-	-	-	-	15	15	15	15	15
Max. Number	1	-	-	-	-	1	1	1	1	1

- <sup>1</sup> Wall/Window signs shall not exceed 10 percent of the total wall area or the number indicated whichever is greater.
  - <sup>2</sup> Ground signs may be increased from 32 square feet in area to 50 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
  - <sup>3</sup> Ground signs may be increased from 50 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
  - <sup>4</sup> Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
  - <sup>5</sup> Pole signs may be increased from 200 square feet in area to 300 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
  - <sup>6</sup> One Canopy per window – canopy shall meet all minimum height requirements for accessibility.
- NA = Not Applicable – Refer to specific structural sign types

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

7.02.03 Signs, Special Conditions

1. **Real Estate Signs.** Not more than two signs per lot may be used as a temporary sign. Signs in the TA District shall be set back 20 feet from the road right-of-way or road easement.
2. **Billboard Signs.** Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district and shall also be subject to the following conditions and restrictions.
  - a. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  - b. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.

- c. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
3. Signs hung from canopies and awnings shall maintain 80 inches of clear space, as measured from the bottom edge of the sign to the grade below.
4. *Temporary Signs*  
Temporary signs for which a permit has been issued shall be issued only for signs meeting the following criteria:
  - a. No temporary sign shall be of such size, message, or character so to harm the public, health, safety or general welfare.
  - b. Temporary signs may be for a continual period that has a limited amount of time not to exceed 10 days except that Real Estate signs may be in place until the property sale is finalized.
  - c. Temporary signs may be allowed in a manner where they are put in place during certain periods of time (set up in the morning and taken down in the evening) without a specific end date to the permit and these signs may advertise an off-premises business and / or organization.
  - d. Real Estate signs shall be on the property being advertised unless there is an "Open House" Real Estate sign located elsewhere for not more than two days.
5. *Signs in the Public Right-of-Way*  
No signs shall be allowed in the public right-of-way, except for the following:
  - a. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, advertise community events, and direct or regulate pedestrian or vehicular traffic.
  - b. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.
  - c. Awning, projecting, and suspended signs projecting over a public right-of-way approved by the city.
  - d. Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.
6. *Signs Forfeited*  
Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
7. *Signs Exempt from Regulation Under this Ordinance*  
The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall be located in the public right-of-way without city approval or create an obstruction to vision, as defined in this ordinance and / or a collision hazard to the public:
  - a. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
  - b. Any religious symbol;
  - c. Construction signs when equal to six square feet or less;

- d. Any sign identifying a public facility or public / civic event;
- e. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
- f. Holiday lights and decorations with no commercial message;
- g. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
- h. A political sign exhibited in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

8. *Signs Prohibited Under These Regulations*

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:

- a. Beacons;
- b. Marquee signs;
- c. Roof signs;
- d. Suspended signs;
- e. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section;
- f. Permanent off-premises signs;
- g. Animated signs; and
- h. Audible Signs

7.02.04 **Permits**

- 1. If a sign requiring a permit under the provision of the ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign.
- 2. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign.
- 3. No signs shall be erected or placed in the public right-of-way except in accordance, except as provided for or exempted herein.
- 4. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect and with the Common Signage Plan in effect for the property.

7.02.05 **Sign Permit Procedures**

- 1. **General Permit Procedures.**  
The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance.
- 2. **Applications.**  
All applications for sign permits of any kind shall be submitted to the Zoning Administrator on an application form or in accordance with application specifications published by the City.

3. Fees.  
Each application for a sign permit shall be accompanied by the applicable fees, which shall be established in the Master Fee Schedule.
4. Completeness.  
Upon receiving an application for a sign permit, the Zoning Administrator shall review it for completeness. If the Zoning Administrator finds that it is complete, the application shall then be processed. If the Zoning Administrator finds that it is incomplete, the Zoning Administrator shall, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.
5. Permits to Construct or Modify Signs.  
All signs shall be erected, installed, or created only in accordance with a duly issued and valid sign permit from the Zoning Administrator. Such permits shall be issued only in accordance with the requirements and procedures herein.
6. Permit for New Sign or for Sign Modification.  
An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign. If more than one sign is being proposed on the same lot at the same time, such signs may be applied for on one application.
7. Lapse of Sign Permit and Removal.  
A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of six consecutive months or more and is not renewed within 30 days of a notice from the city to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed. A sign that was constructed, painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed or not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall be forthwith removed without notice or action from the city.
8. Assignment of Sign Permits.  
A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Zoning Administrator may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

7.02.06 **Design, Construction, Maintenance**

All signs shall be designed, constructed and maintained in accordance with the following standards:

1. All signs shall comply with applicable provisions of the appropriate State and Federal Regulations.
2. Except for flags, temporary signs, real estate signs, political signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
3. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this ordinance, at all times.

4. Upon the closing of a business or use, all related advertising messages and non-conforming signs shall be removed by property owner within six months of such closing.

7.02.07 **Violations**

1. Any of the following shall be a violation of these regulations and shall be subject to the enforcement remedies and penalties provided by the David City Zoning Ordinance, and by state law:
  - a. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
  - b. To install, create, erect, or maintain any sign requiring a permit without such permit;
  - c. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed.
  - d. To continue any such violation. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.
  - e. Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.



## ARTICLE 8: SUPPLEMENTAL REGULATIONS

### Section 8.01 Home Occupations

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

- 8.01.01 No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. However, four square feet in area attached flat against the building located on arterial streets.
- 8.01.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 8.01.03 No more than 25% of the home not to exceed 400 square feet, or 100% of an accessory building not to exceed 900 square feet, can be used for the home occupation, except for Child Care Home.
- 8.01.04 Such home occupation shall provide proper plumbing, fire escapes, and other requirements according to law.
- 8.01.05 No more than one employee or co-worker other than the resident(s) can work from that site.
- 8.01.06 No retail sales are permitted from the site other than incidental sales related to services provided.
- 8.01.07 No exterior storage (excluding storage within accessory buildings or structures, pursuant to Section 8.01.03 above) shall be permitted.
- 8.01.08 There shall not be a stock of goods or material on the premises in excess of 120 square feet of the area of the home occupation, none of which shall be of a flammable or hazardous nature.
- 8.01.09 Additional off-street parking may be required for the business.
- 8.01.10 If home occupation is for a business office for services rendered at another location then not more than two business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one piece of equipment shall be counted as one of the two business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.
- 8.01.11 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 8.01.12 There shall not be any mechanical equipment used except of a type that is similar in character to that customarily found in a home.
- 8.01.13 Home Occupation License shall be required.
- 8.01.14 Conditional use permit is required, except for Home Occupation II uses and child care homes.
- 8.01.15 Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.
- 8.01.16 All fees shall be paid in accordance with the Master Fee Schedule.
- 8.01.17 All businesses related to Family Child Care Home I and Family Child Care Home II shall be licensed in accordance with Neb. Rev. Stat. §71-1902 (R.R.S. 1997).

**Section 8.02 Wireless Communication Towers**

**8.02.01 Intent:**

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

**8.02.02 Definitions:**

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

1. **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
3. **APPLICANT** shall mean any person that applies for a Tower Development Permit.
4. **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.
5. **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
6. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.

7. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
  - a). Any Conforming Commercial Earth Station antenna six feet or less in diameter.
  - b). Any earth station antenna or satellite dish antenna three feet or less in diameter.
12. **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
14. **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

8.02.03 **Location of Towers and Construction Standards**

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City.

Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay a filing fee.

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

**8.02.04 Application to develop a Tower**

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

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility. [A performance bond in the amount of \\$50,000 dollars for the expenses of removal and disposal of the tower.](#)
8. [A performance bond in the amount of \\$50,000 dollars for the expenses of removal and disposal of the tower on leased property.](#)
9. [On owned property the bond is to be determined on an individual basis by the Planning Commission.](#)

**8.02.05 Tower Development Permit: Procedure**

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory

requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall also conform to Section 9.03 of this Ordinance. The Planning Commission may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

**8.02.06 Setbacks and Separation or Buffer Requirements**

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100% of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100% of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
  - A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
  - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

**8.02.07 Structural Standards for Towers Adopted**

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

**8.02.08 Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of 300% of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be

designed and constructed in a manner which will prevent, to the extent practical, unauthorized climbing of said structure.

8.02.09 **Exterior Finish**

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

8.02.10 **Landscaping**

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

8.02.11 **Maintenance, Repair or Modification of Existing Towers**

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the Planning Commission, an exemption from compliance as a condition of the Tower Development Permit.

8.02.12 **Inspections**

The City of David City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with any construction standards set forth by the city, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the City's Zoning Office, Zoning Administrator, or a duly appointed independent representative of the City.

8.02.13 **Maintenance**

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

8.02.14 **Abandonment**

If any tower shall cease to be used for a period of one year, the Zoning Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator

that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of David City codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

**8.02.15 Satellite Dish Antennas, Regulation**

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of David City only upon compliance with the following criteria:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of two feet.
2. Single family residences may not have more than two satellite dish antennas over two feet in diameter.
3. Multiple family residences with ten or less dwelling units may have no more than two satellite dish antennas over three feet in diameter. Multiple family residences with more than ten dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of David City, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

**Section 8.03 Fences**

No fence shall be constructed within the zoning jurisdiction of the City of David City unless it is constructed in conformance with the following requirements:

**8.03.01 Height Limitations**

The height limitation for fences shall be 72 inches above ground level provided said fence is built along the required setback lines of a lot; except as provided herein.

1. No fence shall be constructed within a required front yard of any lot, except as may be otherwise provided herein.
2. Fences constructed along a property line shall not exceed 42 inches in height; except as provided herein.
3. Fences constructed along an adjoining property line and at the rear property line may be 72 inches in height; except as provided herein.
4. Fences within the front yard of a lot shall not exceed 42 inches in height and shall not be constructed within any required sight triangle.
5. The height of a fence shall be determined by the vertical distance measured from the established grade level at the nearest sidewalk, top of curb, or other public right-of-

way to the top of the highest part of the fence, except that a decorative post cap of an additional four to six inches may be installed. Earth berms, whether manmade or not, terraces, and retaining walls that elevate the fence shall be considered a part of the fence, and shall be included in the height of the fence. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures shall comply with the provisions of this Ordinance.

6. Where it is demonstrated that for security purposes the perimeter fencing around a factory or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved by through a Conditional Use Permit
7. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
8. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.

8.03.02 **Design Criteria/Location**

1. Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District.
2. No fence or vegetation shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a traffic safety hazard. No fence or vegetation shall be situated or constructed within the required sight triangle.
3. The use of barbed wire in the construction of any fence is prohibited except:
  - a. Perimeter security fencing of buildings constructed in a Highway Commercial or Industrial District. The plans and specifications for any such fencing must be approved by the Zoning Administrator before commencement of construction.
  - b. Farm fencing constructed for agricultural purposes on parcels in the Transitional Agriculture District and Residential Agriculture District.
4. All supporting posts for fence construction shall be set in concrete except for agricultural fencing in the Transitional Agriculture District and Residential Agriculture District.
5. All fences shall be maintained in good repair.
6. All fences shall be located inside the boundaries of the property upon which constructed except where two adjacent property owners, pursuant to written agreement filed with the city, agree to build one fence on the common lot line of adjacent side yards or back yards.

8.03.03 **Electric Fences.**

No electric fence shall be constructed or maintained within the City of David City or within its extraterritorial zoning jurisdiction except in the Transitional Agriculture District and Residential Agriculture District. This provision does not apply to invisible fence systems.

8.03.04 **Facing.**

The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which



side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

**8.03.05 Perimeter Fencing.**

All fencing along an arterial or other perimeter road or street in a subdivision shall be consistent in style, type, material, height and color. Such fence shall be approved by the Zoning Administrator based upon existing subdivision and adjacent subdivisions. If not prescribed within the subdivision agreement to be installed all at once, each fence shall require a fence permit and be consistent with the first fence on the perimeter, or in the case of an established subdivision, replacement fences shall be consistent with the dominant fence style, type, material, height, and color. Such requirements shall also pertain to street side yard fencing of lots on the corner of the subdivision entrance(s).

**8.03.06 Retaining Walls.**

No retaining walls four (4) feet or more in height shall be constructed without first obtaining a zoning permit. No retaining wall shall be constructed within the street right-of-way unless authorized by the city or state.

**8.03.07 Swimming Pools.**

All above- or in-ground swimming pools of a permanent nature constructed within the zoning jurisdiction of the City of David City shall comply with any and all city, county, state or federal regulations.

**8.03.08 Fences in existence as of the date of adoption of this Ordinance.**

Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of this Ordinance may remain without change, notwithstanding same may be in conflict with one or more provisions of this Ordinance. However, any replacement or change of said existing fence or addition of a new fence shall meet the requirements of this Ordinance.

**Section 8.04 Performance Standards for Industrial Uses**

**8.04.01 Physical Appearance**

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

**8.04.02 Fire hazard**

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

**8.04.03 Noise**

No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise

shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

**8.04.04 Sewage and Liquid Wastes**

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

**8.04.05 Air Contaminants**

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
2. Particulate mater of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.

**8.04.06 Odor**

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

**8.04.07 Gasses**

The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.

**8.04.08 Vibration**

All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three

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

8.04.09 **Glare and heat**

All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

**Section 8.05 Small Wind Energy Systems**

8.05.01 **Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

8.05.02 **Definitions**

The following are defined for the specific use of this section.

1. **Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
2. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

8.05.03 **Requirements**

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height
  - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
  - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Setbacks
  - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
3. Noise
  - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closet neighboring inhabited dwelling unit.
  - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. Approved Wind Turbines
  - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
  - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.

- b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
  - c. The manufacturer frequently supplies this analysis.
  - d. Wet stamps shall not be required.
6. Compliance with FAA Regulations
- a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
- a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  - b. The manufacturer frequently supplies this analysis.
8. Utility Notification
- a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
  - b. Off-grid systems shall be exempt from this requirement.

**Section 8.06 Commercial/Utility Grade Wind Energy Systems**

**8.06.01 Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within the zoning jurisdiction of the City of David City.

**8.06.02 Definitions**

The following are defined for the specific use of this section.

1. **Aggregate Project** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
2. **Commercial WECS** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
3. **Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
4. **Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
5. **Meteorological Tower** shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include

towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

6. **Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
7. **Public Conservation lands** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
8. **Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.
9. **Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
10. **Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.
11. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
12. **Tower** shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
13. **Tower Height** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
14. **Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
15. **Wind Energy Conservation System** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

16. **Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

8.06.03 **Requirements**

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer's certification.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis
12. FAA permit
13. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System.
14. Decommissioning Plan
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.

8.06.04 **Aggregated Projects**

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

8.06.05 **Setbacks**

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	1.1 times the total height or in an Agricultural or Transitional Agricultural Districts only. In other districts, the setback shall be the distance of the fall zone, as certified by a professional engineer, + 10 feet	1.25 times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Neighboring Dwelling		750 feet	The greater of:

Units*			The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Road Rights-of-Way**	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	One times the height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Public conservation lands	NA	600 feet	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet	600 feet
Other structures	NA	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other existing WECS	NA	To be considered based on: <ul style="list-style-type: none"> <li>• Relative size of the existing and proposed WECS</li> <li>• Alignment of the WECS relative to the predominant winds</li> <li>• Topography</li> <li>• Extent of wake interference impacts on existing WECS</li> <li>• Property line setback of existing WECS</li> <li>• Other setbacks required</li> </ul> Waived for internal setbacks in multiple turbine projects including aggregated projects	
River Bluffs		1,320 feet	

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

**8.06.06 Special Safety and Design Standards**

All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. Color and finish:  
All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
6. Lighting:

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.

7. Other signage:  
All other signage shall comply with the sign regulations found in these regulations.
8. Feeder Lines:  
All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
9. Waste Disposal:  
Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
10. Discontinuation and Decommissioning:  
A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to ground level within 90 days of the discontinuation of use.

Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

11. Noise:  
No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use.
12. Interference:  
The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the city/county for permits.
13. Roads:
  - a. Applicants shall identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
  - b. Applicants shall conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
  - c. Applicants shall be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
14. Drainage System:



The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

**Section 8.07 Self Storage Units / Convenience Storage Units**

- 8.07.01 Minimum lot size of the Self Storage facility shall be two acres.
- 8.07.02 Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 8.07.03 All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock or other approved rock other than gravel. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
- 8.07.04 All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- 8.07.05 No storage may open into the front yards.
- 8.07.06 Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are require, a total of 35% of all buffers shall be landscaped.
- 8.07.07 Height limitations shall require a maximum height of 20 feet for any structure in the facility.
- 8.07.08 The perimeter of each facility shall be fully enclosed by fencing or screen walls. Perimeter fencing shall be provided at a minimum of six feet and maximum of eight feet in height, of material approved by the Zoning Administrator. Fencing shall be constructed behind required buffer yards.

**Section 8.08 Auto Wrecking Yards, Junk Yards, Salvage Yards, and Scrap Processing Yards**

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

**Section 8.09 Landscaping Regulations**

**8.09.01 Intent**

The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of David City by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-

way are designed, installed and maintained in accordance with then provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

**8.09.02 Application and Scope**

The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

1. Agricultural buildings, structures and uses.
2. Replacement of lawfully existing structures or uses.
3. Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking of less than 4,000 square feet shall not be excepted. Where such enlargement is less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.
4. Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.
5. When a lot or site with more than one ownership has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City Council with the recommendation of the City Planning Commission.

**8.09.03 Landscaping Requirements**

Landscaping shall be required and provided as follows:

1. Single-family and two-family dwellings shall provide and maintain a minimum of 30 percent of lot area as a permeable and uncovered surface that contains living material. Single-family and two-family dwellings shall be exempt from all other requirements of this section except for plant material and maintenance.
2. Street Frontage:  
A landscaped area having a minimum depth of 15 feet from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.
  - a. The required landscaped are 15 feet may be reduced to 10 feet if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
  - b. Exclusive of driveways and sidewalks not more than 25% of the surface of the landscaped area shall have inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.
  - c. A minimum of one tree shall be planted for every 40 lineal feet or fraction thereof.
3. Side Yard:  
A landscaped area having a minimum depth of ten feet from the property line shall be provided along the side yard abutting any Residential District.

- a. Exclusive of driveways and sidewalks, not more than 10% of the surface of the landscaped area shall be inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf. If the slope of ground within the landscape area exceeds 2:1, not more than 50% of the surface shall be inorganic material.
  - b. Landscaping shall include a hedge screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet within four years. A landscaped earth berm not exceeding six feet in height may be used in combination with the plant materials.
  - c. A solid wood and/or masonry fence or wall six feet in height may be used in lieu of or in combination with the plant materials required, provided that such fence is at least five feet from the property line.
4. Rear Yard:  
A landscaped area having a minimum depth of ten feet from the property line shall be provided along the rear yard abutting any Residential District.
- a. The landscape requirements for the rear yard shall be the same as for the side yard described in Section 8.09.03 (3)
5. Off-Site Parking Lots:  
Parking lots not located on the property where the use served is located, shall conform to this section provided that a parking lot with an area of 4,000 square feet or less shall be exempt from the requirements of this section.
6. Parking Area Interior Landscaping:  
Off-street parking lots and other vehicular use areas shall have at least ten square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections of this Ordinance, and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such perimeter.
- The front of a vehicle may encroach upon any interior landscaped area when said area is at least four feet in depth per abutting parking space and protected by curbing. Two feet of said landscaped area may be part of the required depth of each abutting parking space. No more than two drive aisles shall be placed parallel to one another without an intervening planter aisle of at least four feet in width; eight feet is required if parking spaces overlap the curbs of the aisle.
7. Perimeter Landscaping:  
All commercial office and industrial developments, buildings, or additions thereto shall provide perimeter landscaping to include one tree for each 40 lineal feet or fraction thereof. Such landscaped area shall consist of sufficient area for the species of tree to be planted. Other perimeter landscaping shall require approval of city staff.
8. Plant Materials:  
Landscape plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.
- a. The plant nomenclature shall conform with the recommendations and requirements of the "American Standard for Nursery Stock", as amended, published by the American Association of Nurserymen, Inc.

- b. Size. The minimum size of plant materials to be installed shall be as follows:
  - i. Deciduous trees having a mature height of 20 feet or less shall have a minimum caliper of one and one-fourth inches.
  - ii. Deciduous trees having a mature height of more than 20 feet shall have a minimum caliper of one and one-half inches.
  - iii. Evergreen (conifer) trees shall have a minimum height of three feet.
  - iv. Deciduous shrubs shall have a minimum height of 18 inches.
  - v. Evergreen shrubs shall have a minimum spread of 18 inches.

9. Planting Schedule:

The plant materials shall be installed prior to the issuance of the certificate of occupancy. If, because of seasonal reasons, the landscaping cannot be installed, a surety satisfactory to the City of David City equal to the contract cost shall be submitted to the City. The City shall release the surety when the plant materials have been installed. If the plant materials have not been installed within 12 months of the effective date of the certificate of occupancy, the City may hire to install the required landscaping.

10. Required Plans:

Upon application of a zoning permit, a landscape-planting plan shall be submitted to the City of David City for review and approval.

- a. Three copies of the plan shall be submitted.
- b. The plan shall include, but not be limited to, the following:
  - i. Property lines and other physical features necessary to show the proposed installation of plants.
  - ii. The location and spacing of plant materials.
  - iii. The scientific name, common name, plant size, quantity and planting method.
  - iv. The plan shall have a scale of not more than one-inch equals 100 feet.
  - v. When necessary, existing and proposed contours shall be provided.

8.09.04 **Screening Requirements**

- 1. All parking areas or vehicular use areas abutting a residential district or public right-of-way shall be screened from grade level to a height not less than three feet.
- 2. All commercial and industrial uses that abut residential or office districts shall provide screening not less than six feet in height along the abutting property line(s).
- 3. Screening required by this section shall be equivalent to the following:
  - a. Solid fences or walls as approved by the Planning Commission on the final development plan.
  - b. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within three years after planting.
  - c. Berms of not less than three feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 8.09.03(3) above.
  - d. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid enclosure six-foot in height around each unit. Said enclosure shall be of complementary materials suitable to the Planning Commission.
  - e. All plant material used for screening shall meet the standards in Section 8.09.03(3).

**8.09.05 Installation and Maintenance of Landscaping and Screening**

1. Installation:

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

2. Maintenance:

The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement. Underground sprinkler systems shall be provided to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Planning Commission.

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

**8.09.06 Preliminary Plan Approval**

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, preliminary CMD, or preliminary site plan for development, for review and recommendation by the Planning Commission and approval by the City Council. Said Plan shall be in sufficient detail to provide the Commission and City Council with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

**8.09.07 Final Plan Approval**

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning Commission on separate sheets for review and recommendation and approval by the City Council along with a planting schedule at final development plan submission.

**8.09.08 Parking Lot Plan Approval**

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

1. New construction.
2. Expansion of existing facilities.
3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot

landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.

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

**Section 8.10 Amateur Radio Antenna**

8.10.01 Amateur radio antenna installations exceeding 65 feet in height may be allowed by conditional use permit in the TA, RA, R-1, R-2, and zoning districts in conformance with the following conditions:

1. The amateur radio antenna installation shall comply with all applicable governmental regulations and standards;
2. The site for the amateur radio antenna installation shall be on the same premises as the main residence of the amateur radio operator;
3. The site for the amateur radio antenna installation shall be licensed by the Federal Communications Commission as an amateur radio station for amateur radio communications;
4. The amateur radio antenna installation may exceed the maximum height for the district in which they are located.
5. Only equipment and facilities necessary to the operation of the amateur radio antenna installation shall be permitted and only if such facilities are expressly permitted by the terms of the special permit.
6. The application shall be accompanied by a site plan showing site boundary, locations of the proposed antenna installation, guy wire anchors, and nearby structures, tower design and building materials, equipment to be attached to the tower (e.g., antennas, mast, and rotor, etc.), and setbacks from the site boundary. It shall also be accompanied by the following:
  - a. A landscape plan in accordance with the city's design standards for broadcast towers;
  - b. A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to its design, unobtrusiveness, minimum height necessary to accommodate the radio service communications, avoidance of artificial light and coloring provisions;
7. With the exception of those antenna installations to be mounted on existing structures, the following requirements shall be met:
  - a. In the TA district, the antenna installation shall be set back from public streets abutting the antenna installation site by a distance equal to or greater than the antenna installation height. The distance between the antenna installation and site boundary shall be equal to or greater than 50% of the antenna installation height. The distance between the anchors of the antenna installation and site boundaries shall be equal to or greater than the setback requirements established in the underlying zoning district.
  - b. The tower shall have a galvanized finish or other rust inhibiting finish but can be painted green below treetop level. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the minimum standards therefore.
  - c. To prevent vandalism or injuries, adequate security measures shall be provided around the antenna installation base (such as security fence with a locking portal) or other device designed to prevent unauthorized access to the antenna.

8.10.02 In consideration of applications for such conditional use permits, the following criteria shall be given specific consideration:

1. Adverse effects on adjacent property including, but not limited to:
  - a. Whether the proposed antenna installation will visually and aesthetically degrade the neighborhood.
  - b. Whether the proposed antenna installation has the potential to reduce property values.
2. The Federal Communications Commission declaratory ruling entitled PRB-1 recognizing the federal objectives in amateur radio operations and requiring that any zoning regulations which involve placement, screening, or height of antennas based upon legitimate health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur communications and to represent the minimum practical regulation necessary to accomplish those purposes.
3. Potential alternatives to a blanket denial of the proposed antenna installation which could be approved

**Section 8.11 Storage or parking of vehicles, boats, campers and trailers**

No lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of David City shall be used for any of the following:

- 8.11.01 The storage or keeping of motor vehicles not having a property issued current motor vehicle registration and current motor vehicle license plate property displayed; provided, however, that the following shall not constitute a violation of this subparagraph.
1. The storage of unlicensed and/or unregistered motor vehicles in a fully enclosed garage.
  2. The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Transitional Agricultural (TA), Residential Agriculture (RA) or any Industrial District and used in agricultural or industrial activity conducted on said premises.
  3. The storage of not more than one passenger type motor vehicle in good operable condition and shielded from view of the general public by a manufactured and fitted vehicle cover and located on a hard surfaced driveway pursuant to a permit to so store obtained from the City Clerk which permit shall be issued for a fee as established in the Master Fee Schedule to the applicant and shall:
    - a. Be issued for a period not to exceed six months and shall be renewable upon application for like periods as long as such storage is in all respects in compliance herewith.
    - b. Identify the vehicle by make, year of manufacture, model and manufacturer's identification number;
    - c. State the reason the vehicle does not bear a current registration and license;
    - d. Require owner to prove continued operability of the vehicle upon request of the Police Department; and
    - e. Contain the property owner's and vehicle owner's consent for the City and its agents to enter upon the premises and vehicle for purpose of determining continued operability of the vehicle; and shall be revocable upon owner's failure to comply with any of the terms thereof.

- 8.11.02 The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the David City zoning regulations.
- 8.11.03 Parking, storage, or keeping, other than in a fully enclosed garage, of any non-operable motor vehicle on any lot zoned residential, provided, however, that automobiles that are non-operable solely by reasons of repair work being done thereon may be parked on residential lots within the David City zoning jurisdiction occupied by the owner of said automobile, under the following conditions:
1. The automobile is owned by the occupier of the premises and registered to him/her at that address.
  2. The period of said repair work does not exceed ten days in duration;
  3. Said repair work is at all times conducted on a hard surface driveway; and
  4. No more than one automobile in need of repair is situated on the premises at the same time.

Before the City removes a vehicle suspected of violation hereof by reason of it being inoperable the City shall give the owner of the premises upon which the offending vehicle is situated a 72-hour warning notice which may be given by either tagging the motor vehicle or by sending notice by regular mail, postage prepaid, to the occupier of the premises upon which the motor vehicle is situated. Any motor vehicle not removed from the premises within such 72-hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the David City Police Department to demonstrate within said 72-hour period. The operability of the vehicle and, if such operability is satisfactorily demonstrated, the automobile need not be removed.

- 8.11.04 No motor vehicle as defined by section 60-301 of Nebraska State Statutes (or boat, camper or trailer in excess of 15 feet in length or ten feet in height) shall not be parked in the front, side or rear yard of any lot zoned residential except on paved driveways or other hard surfaced areas as designed and provided for in Article 2; provided that;

Boats, campers, trailers or any combination thereof not exceeding two may be parked in the side or rear yard of lots zoned residential from October through April of each year without being parked on a hard surface. A camper or boat situated on a trailer shall be considered as one vehicle.

Said boats, campers and trailers together with accessory structures shall not occupy more than 35% of the required rear yard.

Notwithstanding the foregoing, it shall be permissible to park motor vehicles in the yards of residential lots on areas which are not paved as driveways or otherwise hard surfaced for a period not to exceed 72 hours, when on-street parking is illegal by reason of Section 5-708 of this code and as allowed by special permit to accommodate temporary guests or visitors for no more than 14 days. Any motor vehicle, boat, camper or trailer parked, stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle, boat, camper or trailer



is situated, and if the owner is different than the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interest at the highest legal rate that the City is authorized by law to collect on special assessments.

#### **Section 8.12 Keeping of Animals**

Animals may be kept within the zoning jurisdiction of the City of David City subject to the following restrictions:

- 8.12.01 No bees or livestock including but not limited to sheep, goats, cattle or swine shall be allowed within residential or commercial zoning districts.
- 8.12.02 No bird or fowl shall be allowed within residential or commercial zoning districts. Grandfather rights shall be granted upon application to the City so that this section will not apply to bird or fowl owned, kept or harbored prior to the original effect date of this section, subject to the following conditions:
1. No more than two fowl of any one species or a total of more than five fowl shall be allowed on any one residence or dwelling unit. All fowl shall be confined to the premises of the residence or dwelling unit of the person owning, keeping or harboring such fowl.
  2. No fee will be charged for filing the permit application.
  3. The permit application must be filed on or before January 1, 2008.
  4. The rights granted under any such permit shall not be transferable to a replacement fowl.
- 8.12.03 Horses and other members of the horse family shall be allowed on any piece of property zoned Transitional Agriculture (TA) or Residential Agriculture (RA) and containing at least one acre of land. One such animal is allowed on the first acre and an additional animal is allowed for each additional two acres of land.
- 8.12.04 The keeping of dogs, cats, rabbits, pigeons and household pets shall be permitted accessory use in residential and commercial districts subject to the regulations for kennels as defined in Article 2 of this Ordinance and the provision found in Chapter 6 of the David City Municipal Code. For the purposes of this section, a "household pet" is any animal or creature kept inside a residential dwelling not outside, and in no event shall include any of the following: any live monkey (non-human primate), raccoon, skunk, fox, poisonous or dangerous insect or reptile, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state. The keeping of pigeons is subject to the following conditions.
1. Such birds shall be banded with some form of identification.
  2. Such birds shall be confined in sanitary, secure structures subject to inspection and approval by the City of David City.
  3. No more than ten such birds shall be allowed on any one piece of property.
  4. Trained pigeons may be exercised under supervision of owner or trainer and be trained to recall on command.
  5. A permit for the keeping of such birds shall be obtained from the City of David City.
- 8.12.05 The restrictions contained in this Section 8.12 shall not apply to any pet store or veterinary services.

**Section 8.13 Solar Panels**

No solar panel shall be constructed within the residential zoning jurisdiction of the City of David City unless a permit therefore is approved and issued by the zoning administrator and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

- 8.13.01 Lot and Height Requirements: Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:
1. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.
  2. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard or front yard.
- 8.13.02 Structural Requirements: The physical structure and connections to existing structures shall conform to the applicable building codes and regulations.
- 8.13.03 Plot Plan: The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- 8.13.04 Permit Fee: A permit fee is required. This permit fee shall be paid prior to the issuance of the zoning permit. The amount of the fee shall be as established in the Master Fee Schedule.
- 8.13.05 Preexisting Solar Panels: Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to January 1, 2008, pursuant to a valid zoning permit issued by the City, may continue to be utilized so long as it is maintained in operational condition.

## **ARTICLE 9: CONDITIONAL USE PERMITS**

**Section 9.01 General Provisions.** The Planning Commission may, by conditional use permit after a Public Hearing, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

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

**Section 9.02 Application for Conditional Use Permits.** A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the city upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

**Section 9.03 Public Hearing.** Before issuance of any conditional use permit, the Planning Commission will consider the application for the conditional use permit at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of David City, one time at least ten days prior to such hearing.

**Section 9.04 Decisions.** A majority vote of the Planning Commission shall be necessary to grant a conditional use permit. No order of the Planning Commission granting a conditional use permit, which has not been acted upon by the applicant, shall be valid for a period longer than 12 months from the date of such order, unless the following is completed:

- 9.04.01 City staff has granted an additional 12 month administrative extension provided:
1. The character (including uses, parking conditions, traffic, and others) of the area in which the use(s) were approved has not changed significantly,
  2. The applicant has made some effort to follow through with said permit or there were circumstances that slowed the applicants' progress.
  3. If the administrative extension of the second 12 month period has lapsed without establishment of said conditionally permitted use; or, if staff deems the character of the area has changed within the initial 12 month period, the applicant shall be required to reapply to the Planning Commission for further approval(s).

**Section 9.05 Standards.** No conditional use permit shall be granted unless that Planning Commission has found:

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

## **ARTICLE 10: BOARD OF ZONING ADJUSTMENT**

### **Section 10.01 Members, Terms and Meetings**

Pursuant to Section 19-908, Reissue Revised Statutes of 1943 (in full): The Board of Zoning Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Zoning Adjustment shall be appointed from the membership of the planning commission, and the loss of membership on the planning commission by such member shall also result in his or her immediate loss of membership on the Board of Zoning Adjustment and the appointment of another planning commissioner to the Board of Zoning Adjustment. One member of the Board of Zoning Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Zoning Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Zoning Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Nebraska Statute Sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

### **Section 10.02 Appeals to Board, Record of Appeal, Hearings and Stays**

As provided in Section 19-909, Reissue Revised Statutes of 1943 (in full): Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Zoning Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

### **Section 10.03 Powers and Jurisdiction on Appeal**

The Board of Zoning Adjustment shall have the following powers:

- 10.03.01 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
- 10.03.02 To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and
- 10.03.03 To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.
1. The Board of Zoning Adjustment shall authorize no such variance, unless it finds that:
- a. The strict application of the Ordinance would produce undue hardship;
  - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

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

**Section 10.04 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment may appeal as provided by Section 19-912, Reissue Revised Statutes of 1943 (in full).

## **ARTICLE 11: AMENDMENT**

### **Section 11.01 Amendments**

Pursuant to Section 19-905, Reissue Revised Statutes of 1943 (in full): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet 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  $\frac{3}{4}$  of all members of the City Council. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be published in a legal paper of general circulation in the city at least ten days prior to the hearing and a notice shall also 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 1  $\frac{1}{2}$  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 the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$50 or more than \$100. The provisions of this section in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

### **Section 11.02 Planning Commission Review**

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

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 11.02.01 At the time that application for a change of zoning district or amendment to the zoning text is filed with the Planning Commission, there shall be deposited the sum set in Master Fee Schedule as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
- 11.02.02 An application for a change of district to a Light Industrial District shall contain a minimum area of five acres. The area, if more than one parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- 11.02.03 The foregoing requirements in Subsection b shall not apply in the case of an extension of a Light Industrial District.

### **Section 11.03 Zoning Administrator**

The provisions of this Ordinance shall be administered and enforced by the zoning administrator, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this ordinance.

**Section 11.04 Zoning Permits**

The following shall apply to all new construction and all applicable renovations and remodels within David City's Zoning Jurisdiction:

- 11.04.01 It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the zoning administrator has issued a zoning permit for such work.
- 11.04.02 Issuance of a zoning permit. In applying to the zoning administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. The applicant shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the zoning administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other ordinances of the City then in force, the zoning administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the zoning administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The zoning administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this ordinance. A building or zoning permit shall become void 12 months from the date of issuance unless substantial progress has been made by that date on the project described therein.

**Section 11.05 Certificate of Occupancy**

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

**Section 11.06 Penalties**

Pursuant to Section 19-913, Reissue Revised Statutes of 1943 (in full), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$100 for any one offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.



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

**Section 11.07 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Sections 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**ARTICLE 12: COMPREHENSIVE PLAN RELATIONSHIP**

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the City Council.

**ARTICLE 13: LEGAL STATUS PROVISIONS**

**Section 13.01 Separability**

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

**Section 13.02 Purpose of Catch Heads**

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

**Section 13.03 Repeal of Conflicting Ordinances**

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

**Section 13.04 Effective Date**

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

PASSED AND APPROVED by the City Council of David City, Nebraska, this 8<sup>th</sup> day of May, 2013.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Council member Kroesing made a motion to amend the language in Ordinance No. 1190 to read - It shall be unlawful for the owner or occupant of any residence or premises within the City Limits of the City of David City, to own, keep, or harbor more than three (3) dogs, cats, or a combination of dogs and cats who are over the age of six (6) months. Council member Rogers seconded the motion. Voting AYE: Council members Rogers, Scribner, Smith Svoboda, Kroesing and Vandenberg. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to suspend the statutory rule requiring an Ordinance be read on three separate days. Council member Rogers seconded the motion.

Voting AYE: Council members Kroesing, Rogers, Smith, Scribner, Vandenberg and Svoboda.  
Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1190 on third and final reading. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Scribner, Rogers, Svoboda and Vandenberg. Voting NAY: Council member Smith. The motion carried and Ordinance No. 1190 was passed and adopted on third and final reading as follows:

**ORDINANCE NO. 1190**

AN ORDINANCE SETTING THE MAXIMUM FOR DOGS, CATS, OR A COMBINATION OF DOGS AND CATS AT THREE (3) WITHIN THE CITY LIMITS OF THE CITY OF DAVID CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AS FOLLOWS:

SECTION 1: 6-116 of the City Code of the City of David City, Nebraska, is hereby established to provide as follows:

**Dogs and Cats; Limitation on Numbers within City Limits.**

It shall be unlawful for the owner or occupant of any residence or premises within the City Limits of the City of David City, to own, keep, or harbor more than three (3) dogs, cats, or a combination of dogs and cats who are over the age of six (6) months.

Nothing in this provision shall alter or modify the provisions of the City Code concerning kennels within the City Limits of the City of David City, Nebraska. To the extent that the owner/occupant of a premises within the zoning jurisdiction of the City of David city, complies with zoning restrictions concerning a kennel, that ordinance shall remain in full force and effect.

SECTION 2: This ordinance shall be effective from and after its passage, approval, and publication according to law.

SECTION 3: All ordinances in conflict with this ordinance are hereby repealed.

PASS AND APPROVED this 8<sup>th</sup> day of May, 2013.

ATTEST:

\_\_\_\_\_  
Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Matt Rief, representing Olsson Associate, was present to discuss the miscommunication concerning the street assessments along "O" Street from 4<sup>th</sup> Street to the Burlington Northern Santa Fe Railroad.

Council member Rogers stated that the people in his ward are very concerned that they were told that they would not have street assessments and we need to get to the bottom of this. Council member Rogers asked Matt Rief if he had told them that they would not have assessments.

Matt Rief stated that he believes that he did not tell them that they would not have assessments. Matt Rief said, "I believe that this is what went on. I met with a number of residents. I met with Kobza's, Jan & Dan Sypal, and I met with Svoboda's. I met with those three for sure. When I had those conversations, most of the time those conversations were about the project and not assessments. We didn't talk about assessments. We were talking about project issues. I did not bring up assessments. We created the district almost two years ago for Industrial Drive; it was in April of 2011. In May of 2011, we created the thoroughfare district. We created the district but there was not notices sent to the property owners along "O" Street. There was just a public hearing that was in June of 2011."

City Attorney Jim Egr stated that he was correct.

Matt Rief said, "There was a public hearing in that Resolution and an Ordinance that says that the Council has the right to do assessments. At that point in time, I knew that you guys were going to do assessments. That had been your standard protocol across the community. We'd done it up on Industrial Drive, we've done it for a lot of residential blocks, and we did it down on "D" Street. On the residential blocks it's just been curb and gutter and that's the way that I believed that we were going to treat this. That's the way that we were going to treat Industrial Drive too. At that point in time we looked at the design. I met with Jan & Dan, I believe it was in January of 2012, the same with Kobza's, the same with Svoboda's. I didn't bring up assessments. I talked about project issues. I don't believe that I even brought up assessments at that point in time. There was the right-of-way that we acquired that was drafted and was signed from that standpoint by Sypal's on that right-of-way. As we progressed through that scenario, we had the bid openings. That was back in February of 2012. We actually awarded part of the project in March and the other part we change ordered it in April of 2012 and also in April there was a public meeting in this room. At all of those City meetings there was a City employee in attendance. I met with Kobza's, I met with Sypal's, except for Svoboda's and then at this public meeting. At that public meeting I know I was asked a question about assessments and I said that there would be assessments, at that point in time. I know Palensky's asked that question. I know they are on that corner there with the daycare. He asked the question about, basically, are we going to be assessed the same amount for both sides because he knew that he was getting \$25 on Industrial Drive. He asked that at the Council meeting. I didn't get back to him because it was more of a Council decision and I wasn't sure what to tell him. I should have told him that. I should have called and told him that I didn't know for sure. He asked that question in the meeting. Jan came up after the meeting and when we talked about phases and we talked about construction. I talked to the contractor too and he was at that meeting. He remembers me talking about assessments. I remember Jan coming up and asking me about assessments. She asked if she would get assessed on the east side of the highway. I told her no because that was not part of the district. The district ended right here (he indicated on the map that it ended on the north side of the intersection of Highway 15 and "O" Street). It was decided to redesign and to do the improvements along this

section right here. We considered intersection improvements. That's about 100' of road way and about 100' of frontage along the quick shop. That would come up to about \$1500 there of improvements for curb and gutter along that area and then also we did a lot of driveway reconstruction there. There's about \$4,700 worth in front of that business there. Originally, we were going to stop right here and I told her – I know I did – that there would be no assessment. But why did she ask that question – because she knew that she was getting assessed here because she wanted to know over on this side.”

Mayor Zavodny said, “From my standpoint that wouldn't have been appropriate. You have to follow the rules. Where a districts ends, it ends. You can go ahead and finish your presentation but I have heard in previous meetings from people who feel that there was a different communication so I would really like to hear how we got that message.”

Matt Rief said, “Here at Svoboda's too we did some extra driveway improvements here. I could have stopped earlier.”

Council member Rogers said, “I saw the improvements that you did out there and they are very nice. I think there was just a miscommunication or something here. I'd like to hear from Dan & Jan too, their opinion on it. Jan, how do you feel?”

Jan Sypal said, “Well, I can start. Actually, there were four of us property owners here that were here at the last meeting and when Dan & I first started this I hadn't even talked to any of the other property owners. I was completely unaware of what was told to them until after the meeting and then we got started talking with them and realized that we had gotten told the same thing. If I can back up to that original meeting, we came here and there were a lot of people in here because there were the people from 10<sup>th</sup> Street and there were the people from Industrial Drive and there were just a lot of people in the room. At that time assessments were talked about at that meeting. But, when it came to Industrial Drive, there was nothing said about assessments and so after the meeting, Dan & I were concerned about it and so we went up and visited with them and talked to them about the assessments.”

Mayor Zavodny asked Jan Sypal who she was referring to when she said them.

Jan Sypal said, “Matt. We came and visited with him about it. We knew that there would be no assessments across the street so that wasn't even brought up at the meeting that night. We were talking on the west side of the highway is what we were discussing. That was the first time that he said that there would be no assessments because it was part of the Northwest Drainage. That was the first time that we were told all of this. So, as the project progressed then Matt came back and like he said, he did come back to discuss the project and another issue got brought up and it was where they widened out that area on “O” Street that sits against the highway to make it a better intersection for Timpfe trailers to come down that road. Basically, that was purposely what that was designed for so that it would widen out that area because now Timpfe is using that intersection. So, that created taking away some of our property from the car wash and so that was the second time that I asked Matt about assessments because we, basically, donated that to the City. If we would have known that there was going to be an assessment on that property we may not have done that. There may have been an agreement on that piece of property, but we knew that there wasn't going to be an assessment on that property so we basically donated that property to the City. That was part of the deal and the whole time throughout this whole conversation it was always understood, from us, that this was part of the Northwest Drainage and that was part of this whole intersection. I

want to clear something up, I know that Matt said that he talked about improvements to our driveway and you have to understand that when they're coming in there and they're ripping everything up that, of course that's going to be put back. It's got to be put back. You can't come in there and tear up the street and tear up different things without replacing that. You know, I can't even explain to you, some of you are business owners and maybe understand, I can't even make it understood what loss of business that we had during that period of time. So, it was an immense amount of loss of business during that time. That's part of construction and we understood all that and that is completely understandable and we had other issues with getting our driveway into the car wash. We were supposed to be getting the driveway into the car wash and it wasn't getting done and we had a lot of issues throughout this whole thing but that's a completely different story. This is about the assessments on "O" Street. So, that's basically our understanding. It was supposed to be the Northwest Drainage program; no assessments, we got told that twice and that was where we sat with it. Laura is here and Pam and Mark are here so I will let the floor to them."

Laura Kobza said, "My understanding was the same, that there were no assessments. The only time that I ever heard that was here at a meeting and after the meeting when the discussion about Industrial Drive came up and there would be an assessment on Industrial Drive but nobody knew how much, but the "O" Street was supposed to be part of the Northwest Drainage district and there would be no assessment there. That was the only time that I ever heard it was here at a meeting."

Council member Scribner said, "If I could make a suggestion, I believe all of those meetings were taped by Joan."

Interim City Clerk Comte said, "I don't know if those meetings were recorded."

Mayor Zavodny stated that more than likely those meetings would not have been recorded.

Jan Sypal said, "A lot of that discussion wasn't during the meeting either. A lot of that discussion took place after the meeting."

Mark Kirby said, "I live at 1478 N. 2<sup>nd</sup> Street and the project involved the north side of our property where they installed curb and gutter and storm sewer. At the preconstruction meeting, I was under the understanding that everything along "O" Street was part of the Northwest Drainage project. I used to sit on this Council. I sat there for two terms and we talked about the Northwest Drainage project. I've been for the Northwest Drainage before I even lived in that area. All of the improvements that have been made up there are great improvements and I'm glad they are done. Like I said I thought that the "O" Street was part of the Northwest Drainage project. After the project started I had gotten Matt's cell phone number because every time they were working there and it was raining and the water wasn't moving, I'm concerned. Mr. Kroesing has walked through the alley after a big rain and if you don't have five buckle overshoes on you won't get through my alley. They were in the process of digging into the storm sewer there and, unfortunately, one of the contractor's backhoes had broken down and there it sat and there was a 70% chance of rain that night. I was trying to call Matt and I couldn't get a hold of Matt and so I ended up calling Joan and she ended up getting ahold of whoever Matt had here at the time as the secondary contact. He came down there, of course, and I had a lot of concerns and I asked the question again and I said, "Who's gonna pay for all of this" and I had concerns because I sat on this Council and I knew how the curb and gutter process went

and I thought that there always had to be a signed petition and you had to have a certain percentage of residents and, of course, I didn't sign anything. So, I'm thinking, wait a minute here, but finding out later on that there was a Resolution passed by the Council so obviously I didn't know anything about that. I didn't watch the paper and I should have been watching it. So, I was told two different times and I was under the assumption that "O" Street was all part of the Northwest Drainage project. Now, like I said, I sat on the Council before and I know that everything costs money but there was drastic miscommunication on this part. I mean drastic. Unfortunately, the assessments have already been filed at the county. Some people have already paid their assessments. I guess, moving forward, it's a learning issue but unfortunately, there's some land owners that feel like maybe they got shafted a little bit. I don't know what you are going to do. It's already been done."

Council member Kroesing asked why there wasn't a paving district instituted.

Mayor Zavodny stated that he thought that was one of the bigger parts of the miscommunication. Mayor Zavodny said, "That really did contribute to it. When we were doing all of that together, the suggestion was made that we could add that on as a thoroughfare and then it could all be part of the same project. Therein lies where you would normally have to create the paving district and you'd have to get the signatures. It was just added on to Industrial Drive and an extension of that clear to the railroad tracks."

Matt Rief said, "A thoroughfare district is a paving district. It's just a different kind. There's a gap paving district, there's a street improvement district where you have the right to protest and typically that's the one that we use. There's a paving district that's created by petition where you have to have 60%, so it's just another tool to create a paving district. It was more of a Council decision from that standpoint."

Mayor Zavodny said, "My concern from the start was did we follow procedures? It looks like that was done but it's not as clean as if we would have come and said we need 60% and you need to sign or not sign. You didn't get your vote to do it."

Interim Clerk Comte said, "They had the right to protest."

Mayor Zavodny said, "Yes, they had the right to protest but it wasn't a paving district."

Mark Kirby said, "The thing was if it would have been done that way then we would have known that it was coming."

Matt Rief said, "That is a very good point."

Mayor Zavodny said, "I agree with that too. I think that contributed to miscommunication because that process which is the normal process, which you would have recognized. I fully understand now."

Mark Kirby said, "That's one of the first things that I said when I found out that we were going to be assessed. I said, 'I never signed any paper.'"

Mayor Zavodny said, "And there's no such thing as a free street – ever, is there?"

Mark Kirby said, "I understand that. I've said that before in meetings too."

Jan Sypal said, "And along with that was the fact that we were told that it was going to be part of the Northwest Drainage and there was not going to be any assessments. Mark got told that on his own property and Pam also and I think Pam would like to talk yet."

Matt Rief said, "I can't speak for Colt as far as what he told you. I don't know what he said."

Mark Kirby said, "At the preconstruction meeting, you can say that there was assessments talked about but nobody spoke up and said that there was going to be assessments."

Pam Kabourek said, "I know that you told the 10<sup>th</sup> Street property owners that they would be assessed \$15, and the rest of the property owners – I don't know. Those were your exact words. I'm one of the other ones, so we didn't know and leaving that night we thought well, now what? Everyone that my husband and I talked to on that project said how much is it costing you and we said that we don't know, we've never been told, and they said then it's not going to cost you anything. I don't know for sure who they were but I know that night you said I don't know."

Matt Rief said, "I did not know the dollar amount."

Pam Kabourek said, "So, we didn't have any idea with it being the Northwest Drainage Project that there was going to be anything or not because we were never told. I know the property owners along Industrial Drive had been in several meetings before that and they knew that there would be something but nothing along "O" Street. We'd gotten a letter about that big meeting in April and we were at that and then we got a notice about a meeting again this year and I had totally forgotten about it but we were under the assumption that there wasn't going to be any assessments and I didn't come and then we got a letter in the mail saying that we owed this many thousands of dollars."

Mayor Zavodny said, "OK, is there anyone else who would like to speak or are there any follow up questions?"

Matt Rief said, "I want to clarify one thing. I want to make sure that the Council knows that most of this project was paid for through TIF (Tax Increment Financing) from the Timpte addition. It was facilitated by the Northwest Drainage Project. This project would not have happened until the Northwest Drainage Project but the majority of it was paid by TIF and Timpte."

Mayor Zavodny said, "Well, I thought that it was important that we have this opportunity because of the previous meetings and I kind of agree with Mark's assessment – I don't know what you do now."

Mark Kirby said, "The only thing that I would say to you is that from now on, every time you are going to curb and gutter anything, have signatures and make sure that the property owners know."

Council member Kroesing said, "Create a paving district."

Mayor Zavodny said, "Yes that would have been a lot better."



Mark Kirby said, "If that had happened at the beginning of this whole thing, we may not be sitting here today, but unfortunately, we're sitting here today because it was never clear to any of us. We wouldn't be here talking with Matt right now if it was clear as mud. We wouldn't be here. We feel like this just wasn't handled properly and maybe we don't deserve what we got, honestly."

Jan Sypal said, "We feel that this should be a workable situation. That's why we are here tonight. How does the Council feel about it? We just feel like we shouldn't have to take on all this responsibility since we were totally misinformed."

Mayor Zavodny said, "Well, I don't know of anyone who's ever gotten a free street."

Jan Sypal said, "But that's completely irrelevant."

Mayor Zavodny said, "You know, my opinion is NOT irrelevant. I'm entitled to mine."

Jan Sypal said, "No, I didn't mean that your opinion was."

Mayor Zavodny said, "That was my opinion, though. I just wanted to make sure that the City followed its processes and procedures. We could have done it differently. I will acknowledge that and concede that point. But, did we do what needed to happen with hearings and that kind of thing? I believe that we've done that. It could have been better though. That I'll say. Council, she's asked what you feel about it."

Council member Scribner said, "There's no way to open up the Board of Equalization again is there?"

City Attorney Egr said, "No, it's a done deal."

Mayor Zavodny said, "It's at the courthouse."

Council member Kroesing said, "I guess at the time, Jan, there were a lot of meetings going on that we were involved in that had to do with paving districts and I guess that we didn't separate them out. We didn't know where they were at because they were paving all over the place and they were doing work all over the place. That's not a valid excuse but I just flat didn't realize that there was not a paving district established at all."

Jan Sypal said, "I don't think that any one of us property owners has anything against the City at all. It has everything to do with the miscommunication with Olssons. Really, it has. I said this at the last meeting. I don't think that one of us property owners has anything against how the City handled the situation. It has everything to do with the miscommunication with Olssons."

Mayor Zavodny said, "And what was represented."

Jan Sypal said, "Yes, absolutely."

Mayor Zavodny said, "I think that we can maybe we can all agree that the final product turned out really good. But, how you got from, boy we ought to do this as an idea to we have a nice product is a whole lot of stuff in the middle that wasn't so great."

Council member Kroesing said, "Is this the norm rather than the exception? If you have a major project like this and you do go into the residential areas for a project, is this the way it's normally handled versus a paving district that I'm familiar with?"

Matt Rief said, "Are you talking what other communities do with paving districts?"

Council member Kroesing said, "Like what happened here. There was not a paving district established, as such, like I understand it."

Mayor Zavodny said, "Revisit the thoroughfare approach."

Matt Rief said, "I didn't know this until Phil brought it up at the time too. My standard protocol is to create a paving district like you normally would and then you have the right to protest. The two ways that I've done is basically, a right to protest, where the Council creates the district and there's notices sent out to the residents at that point in time and they have the right to protest. If there's over 50% that protest it then it gets kicked out. The second way of doing it is by petition, where 60% of the fronting property owners sign a petition to create a paving district. Once you have the petitions, you create the district after that. You still have to publicize and everything else from the stand of protocol. The other ones that I've been involved in is gap paving, where you have two intersections and you fill in between. For that one, you do not send notices out. You create the district, you have a public hearing, from that standpoint, and then there's the board assessment at the end."

Mayor Zavodny said, "And in the gap paving that's the only process where the property owners wouldn't necessarily have any recourse."

Matt Rief said, "They would not have recourse. This is the first time that I've done a thoroughfare district. I agree with Mark. I'm not going to disagree. I wish that we would have backed up. I wish that Phil would never have brought it up."

Mark Kirby said, "Now that you say that this is the first time it makes me feel even better."

Matt Rief said, "I had never done a thoroughfare district. It was brought up by bond counsel."

Mayor Zavodny said, "You may never again."

Matt Rief said, "I may never again. Typically, how we do it is to follow the standard protocol and across town if they are doing curb and gutter it's assessments. I know that it's my word against several of the resident's right here from that standpoint too. I just didn't bring up assessments."

Jan Sypal said, "But some of us brought them up to you."

Matt Rief said, "I know that you brought it up at the public meeting. I know."

Mayor Zavodny said, "And I think that Northwest Drainage added to the confusion too. We had a lot going on and I said from the very beginning that one of my pet things in all of this was straightening out that intersection. I could take or leave Northwest Drainage."

Matt Rief said, "I know that I presented to Council in September of 2012 when construction was wrapping up a budget that had assessments on it for "O" Street."

Jan Sypal said, "Are you willing, Matt, to work with some of us property owners? Are you willing to work with us on some of the project?"

Matt Rief said, "On some of the project?"

Jan Sypal said, "With the assessments?"

Matt Rief said, "With the cost of the assessments?"

Jan Sypal said, "Yes."

Matt Rief said, "I'd have to talk to my firm and see where we are with that."

Jan Sypal said, "I think that's where we are, am I speaking for all of us?"

Mark Kirby said, "I think that's the next step is to ask. At this point, that's the only thing that we can do is ask."

Matt Rief said, "That's a firm decision. Would you speak to that Jerry?"

Jerry Hain, representing Olsson Associates, said, "I think that if the City went through all of the proper procedures, certified the assessments, held the hearings, the property owners had time that they could have objected at the hearings that it should have been taken care of there."

Jan Sypal said, "But there was nothing to object to because we were told that there were no assessments."

Jerry Hain said, "The Council sat as a Board of Equalization and approved the assessments. Correct? At that point you could have objected to the amount of the assessment."

Jan Sypal said, "There was no assessment established."

Matt Rief said, "Jan did object at that point in time. Jan spoke up at that meeting. I know that Mark sent a letter at that time."

Jan Sypal said, "And Bob Kobza was here and Pam was here."

Mayor Zavodny said, "I read Mark's letter into the record."

Jan Sypal said, "So, is that ok Matt?"

Matt Rief said, "You can ask right now. I guess I'll stand with the firm right now. I'll listen but right now we're not in the position to compensate."

Council member Scribner said, "I'd like to go on record and thank Timpfe for the nice road and for paying for a majority of the project."

Mayor Zavodny said, "Well, I think if those discussions are going to continue further you know where to go and I want to thank everyone for participating in that discussion and thank you to Olsson's for being present this evening and for addressing our citizens."

Council member Kroesing introduced Resolution No. 10-2013 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Smith, Rogers, Kroesing, Vandenberg and Svoboda. Voting NAY: None. The motion carried and Resolution No. 10-2013 was passed and adopted as follows:

**RESOLUTION NO. 10-2013**

WHEREAS, Mike and Pam Siroky have filed an application to combine their three 50' lots located at East David City, Block 12, Lots 8, 9, & 12 to form one 150' x 140' lot,

WHEREAS, there were no objections expressed concerning the request of Mike and Pam Siroky.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Mike and Pam Siroky to combine their three (3) lots located at East David City, Block 12, Lots 8, 9, & 12 to form one (1) 150' x 140' lot, is hereby approved.

Dated this 8<sup>th</sup> day of May, 2013.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Council member Kroesing introduced Ordinance No. 1191 and made a motion to suspend the statutory rule requiring an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1191 on third and final reading. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Svoboda and Vandenberg. Voting NAY: Council member Scribner. The motion carried and Ordinance No. 1191 was passed and adopted on third and final reading as follows:

**ORDINANCE NO. 1191**

AN ORDINANCE NARROWING THAT PORTION OF "B" STREET FROM THE EAST SIDE OF "13<sup>TH</sup> STREET TO THE EAST SIDE OF 14<sup>TH</sup> STREET, DECLARING SAID NARROWING EXPEDIENT FOR THE PUBLIC GOOD, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

SECTION 1. That "B" Street from the east side of 13<sup>th</sup> Street to the east side of 14<sup>th</sup> Street has not been used or maintained as a street at any time but only designated as such in the original East David City Addition.

SECTION 2. That the Planning Commission discussed the extension of the 100' wide "B" Street, and the fact that there are existing evergreen trees on the south side of "B" Street that would need to be removed to accommodate a 100' wide street.

SECTION 3. That Mike and Pam Siroky have recently purchased Lots 8, 9 and 12, Block 12, East David City and will need "B" Street from 13<sup>th</sup> to 14<sup>th</sup> Street as an access road to their property.

SECTION 4. The City currently has a water main in the "B" Street easement;

SECTION 5. That a 66' wide street would be sufficient for "B" Street between 13<sup>th</sup> to 14<sup>th</sup> Street;

SECTION 6. That the Street Superintendent will designate a 66' wide street;

SECTION 7. That this ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage and approval.

Passed and approved this 8<sup>th</sup> day of May, 2013.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Council member Scribner made a motion to grandfather the evergreen trees on the south side of "B" Street that are currently on the City's easement. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Scribner made a motion to contribute \$1,500 from the Keno fund toward the fireworks display at the Butler County Fair. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg, Smith, Rogers and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny stated that the Butler County Parade Committee is asking for approval for the parade to cross Highway 15.

Council member Smith asked if the office staff could check with Seward and Schuyler to determine how much, if any, extra that they have to pay to cross the highway.

Mayor Zavodny asked if this could wait until the June meeting for discussion in order to find the answers to Council member Smith's questions.

Pat Sweney was in attendance representing the Butler County Parade Committee and she stated that they needed to approval now because it has to be submitted to the State for their approval at least 30 days prior to the event.

Council member Kroesing made a motion to approve and accept the Butler County Parade Committee's request for the Butler County Parade to cross Highway 15 contingent upon the Butler County Fair Board showing evidence of the \$2 million required insurance policy. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Smith, Svoboda, Kroesing, Rogers and Scribner. Voting NAY: None. The motion carried.

Mayor Zavodny asked Planning Commission members Jim Vandenberg and Janis Cameron if the Planning Commission had strong feelings regarding the effluent water one way or the other.

Jim Vandenberg stated that he felt that this was just the nature of the type of water. Vandenberg said, "Contrary to what a representative said at one of our first meetings, the operation of wastewater plant has not gone downhill to the extent that he suggested because there were people that said that there was samples taken right away and I saw a copy of that and they said that, yes there was a possibility of salt, and in a sample that was just taken by Water/Sewer Supervisor Gary Janicek, he said that it had not increased, that's just the way it is. Other than treating it with a whole bunch of chemicals to neutralize the salt, there's not much that you can do.

Mayor Zavodny stated that it is the nature of the product and there is a cumulative effect.

David City Golf Club Board member Galen Krenk stated that there is nothing being done at the wastewater plant to do anything about the salt. That is merely chlorine and other chemicals being put in there to get the bacteria out of the water. There is nothing being done out there to get rid of the salt. You can't get rid of the salt. You'd have to build a \$200,000 desalination system to get rid of the salt.

Council member Kroesing stated that he can add some to the discussion about the effluent water. Kroesing said, "I was one of the people that requested that this lady come out from the University of Nebraska and speak when all of this effluent water thing was going on. I was one of the advocates against it. She said that if you don't adhere to the exact instructions

of how that is applied that your soil will deteriorate. At that time you could only apply two inches of water per week. It doesn't make any difference if you are in a full blown drought. You could only apply two inches of the effluent water per week. Anything above and beyond that is going to contribute to the deterioration of your ground. She said that after that it comes down to chemicals to keep your ground in shape to absorb the water. She said that you'll just turn it into the great salt lake if you keep it up at the present rate. I can believe when that first got started being used that they might have adhered to that two inches per week but the drier that it gets, I don't believe that they did adhere to it. I think they were pouring it on. If that's the fact then that's why your ground is the way it is right now."

Mayor Zavodny stated that was a helpful piece of information.

Galen Krenk stated that he's got literature that will explain what that salt does to the soil. Krenk said, "They knew when you started the effluent water that there was salt in the water. There were samples taken back then. They knew that it was high in salt. There was talk at the Planning Commission meeting that Beatrice uses effluent water on their golf course. I talked to the guy from Beatrice today and he said if we were to come close to spending what they do on gypsum and the other chemicals, we are done. We can't afford that. The gypsum alone runs about \$6,000 per year.

Council member Scribner made a motion to table the recommendation by the Planning Commission, that the City hire Dave Ziska, Olsson Associates, to determine why there is so much salt in the effluent water being used on the golf course until agenda item #21 is finished. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Rogers, Scribner, Smith and Svoboda. Voting NAY: None. The motion carried.

Mayor Zavodny stated that the golf course had done some preliminary work on the well project and he asked if there was a place to situate it that is far enough away from our lakes. He stated that it has to be 500' or so away from the lakes and those kinds of things. The other thing that he felt was nonnegotiable was that the well needed to be City owned and to some extent operated as far as making sure that we're following all of the rules that govern a well like that.

David City Golf Board member Galen Krenk stated that he understood that it stated all of that in the Memo of Understanding that was drawn up by City Attorney Egr.

City Attorney Egr stated that Council member Kroesing had asked that the disconnection of the effluent water statement be added to the Memo of Understanding. He stated that he tried to incorporate all of the things that he thought the Council wanted in the Memo of Understanding.

Mayor Zavodny asked Galen Krenk where the well would be going on the golf course.

Galen Krenk stated that they were talking about directly south of the clubhouse. He stated there were actually two places that it could be placed. One is close to the south property line and the other is where the City water used to come in and there is a little building there.

Mayor Zavodny asked if that gives us the correct distance from the lakes.

Galen Krenk stated that he went through the entire Wellhead Ordinance and he didn't see a distance that you have to stay away from lakes.

Jim Vandenberg stated that the Ordinance doesn't really talk about the distance from lakes, a lot of the restrictions are 500'.

Mayor Zavodny stated that he thought it said something about open water.

Galen Krenk stated that the Ordinance says that you have to be 500' from another well and we would be way away from that. He stated that they would be close to 500' from the open water.

Mayor Zavodny stated that he's with Council member Kroesing on this and that the effluent water had its purpose for a time, but that's not today. We've reached a point where now the golf course is something that, as far as the City, is one of the few economic development tools that we have available.

Galen Krenk stated that he also wanted to mention that it isn't just the salt and the problems that they are having with the soil and growing grass and that sort of thing, it is the cost of the effluent water. Somebody tells you that this effluent water is free, and it is far from free. Last year alone, including what we put on for fertilizer and the gypsum to try to neutralize the ph in the soil, we were looking at \$12,000 - \$14,000.

Mayor Zavodny stated that in talking with members of the Council, I think that has been the tipping point for them of being aware that has to happen and that it probably is not cost effective to continue that. We certainly have considered that some in our deliberations.

Jim Vandenberg stated that the Planning Commission did go on the record as recommending the advancement of the well project.

Mayor Zavodny asked Galen Krenk where they were at with the financing of the project.

Galen Krenk stated that they have talked to members about getting a committee together to work on fund raising. He stated that they have enough money to get started and to dig a test well. He stated that they've had several people that have come forward and stated that they would be willing to contribute. He stated that he didn't think that financing would be a big issue.

Council member Scribner made a motion to authorize Mayor Zavodny to execute the Memo of Understanding between the City of David City and the David City Golf Club concerning a well on the golf course which is City property. Council member Rogers seconded the motion. Voting AYE: Council members Rogers, Kroesing, Vandenberg, Scribner, Smith and Svoboda. Voting NAY: None. The motion carried.

#### MEMO OF UNDERSTANDING

This Memo of Understanding, hereafter referenced as "Understanding" is made by and between THE CITY OF DAVID CITY, NEBRASKA, a Nebraska Municipal Corporation, hereafter referenced as "City" and DAVID CITY GOLF CLUB, INC., a Nebraska Non-Profit Corporation, hereafter referenced as "Golf Club".



WHEREAS, the City owns property within its corporate limits commonly known as "The David City Golf Course", hereafter referenced as "Golf Course" and,

WHEREAS, the Golf Club rents the Golf Course from the City and the City leases to the Golf Club the Golf Course; and,

WHEREAS, the Golf Club operates and maintains the Golf Course, including watering of the same; and,

WHEREAS, the Golf Course is open to the public, EXCEPT when in conflict with Golf Club functions, tournaments, and Golf Club League uses; and,

WHEREAS, the City has provided the use of effluent water from the City's wastewater lagoon system to the Golf Club to water the Golf Course; and,

WHEREAS, the effluent water provided by the City has not worked with much success; and,

WHEREAS, the City has a Wellhead Structure Ordinance; and,

WHEREAS, the Golf Club desires to drill, operate, and maintain an irrigation well solely for the watering of the Golf Course; and,

WHEREAS, it is in the best interests of both parties herein to reduce to writing their mutual agreements and understandings as relates to the drilling, operation, and maintenance of an irrigation well on the Golf Course.

NOW, THEREFORE, IN CONSIDERATION OF the terms and conditions of this Memo, which the parties hereto AGREE TO BE VALUABLE CONSIDERATION, the City and Golf Club agree as follows:

1. The Golf Club agrees as follows:
  - (A) Golf Club will cause to be drilled an irrigation well for the Golf Course.
  - (B) The FULL COST of the said irrigation well establishment WILL BE PAID BY THE GOLF CLUB.
  - (C) The operation, maintenance, upkeep, replacement, and ALL ASSOCIATED costs with the said irrigation well now and into the future WILL BE THE SOLE COSTS of the Golf Club.
  - (D) The Golf Club will see that ALL necessary permits, location of the said irrigation well, and all necessary Natural Resource District (NRD), State of Nebraska regulations and Environmental Protection Agency (EPA) are satisfied so the City HAS NO LIABILITY OR EXPOSURE FOR THE SAME.

- (E) The Golf Club WILL NOT allow any liens to be placed against the Golf Course by reason of the said irrigation well establishment.
  - (F) The Golf Club WILL HOLD HARMLESS the City from any and all responsibility for the said irrigation well; INCLUDING any and all liabilities of whatsoever nature related to the same.
  - (G) The Golf Club hereby acknowledges and accepts that the said irrigation well, despite all of the above agreements, WILL REVERT to the City should the Golf Club cease to exist and/or the Golf Course cease to exist as a golf course.
  - (H) The Golf Club WILL USE the said irrigation well for ONLY IRRIGATION PURPOSES OF THE GOLF COURSE AND NOT ALLOW THE SAME TO BE USED FOR DOMESTIC USE OR OTHER IRRIGATORS.
  - (I) The Golf Club, upon completion of this well project, will do a complete disconnect of its watering system with the effluent watering system so as to prevent any cross-contamination.
2. The City agrees as follows:
- (A) The City will allow the aforesaid irrigation well and grant the permit for the same so long as all regulations of the State, N.R.D., E.P.A. and City Ordinances are satisfied.
  - (B) The City agrees not to interfere with the aforesaid irrigation well so long as the same is used ONLY as an irrigation well for the Golf Course and for NO OTHER PURPOSES.
3. This Memo SHALL BE BINDING on the City and the Golf Club, their heirs, successors, assigns, and personal representatives.

CITY:

GOLF CLUB:

By: \_\_\_\_\_  
Alan Zavodny, Mayor      Date

By: \_\_\_\_\_  
, President      Date

Attest: \_\_\_\_\_  
Tami L. Comte, Interim City Clerk      Date

By: \_\_\_\_\_  
, Secretary      Date

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF BUTLER     )

The foregoing instrument was acknowledged before me \_\_\_\_\_, 2013 by ALAN ZAVODNY, Mayor and TAMI L. COMTE, Interim City Clerk, both of the City of David City, Nebraska, a Nebraska Municipal Corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF BUTLER     )

The foregoing instrument was acknowledged before me \_\_\_\_\_, 2013 by \_\_\_\_\_, President and \_\_\_\_\_, Secretary, both of the David City Golf Club, Inc., a Nebraska Non-Profit Corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

Council member Scribner made a motion to table the recommendation by the Planning Commission, that the City hire Dave Ziska, Olsson Associates, to determine why there is so much salt in the effluent water being used on the golf course indefinitely. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Smith, Scribner, Rogers, Kroesing and Vandenberg. Voting NAY: None. The motion carried.

Mayor Zavodny stated that agenda item #22 Consideration of posting signs that Nebraska Street is not a truck route was tabled at the last meeting and is back for consideration.

Council member Scribner stated that as a truck driver, there is no possible way to make a right turn onto Iowa Street from the highway. He stated that is probably why the MRI truck is turning onto Nebraska Street. He stated that he didn't know if we've talked to the hospital or not, but if we have them go the other way and he goes through the park, then he's tearing that up. He could go down "A" Street, but as soon as you turn to go down 10<sup>th</sup> Street there is nothing but trees that have to be trimmed. He's not going to want to drive the MRI truck down the road where he's going to have holes poked in his nice trailer.

Council member Svoboda stated that maybe we should trim the trees. He stated which is easier to do, trim the trees or replace the street. We have a designated truck route on "A" Street and that is the street that they should use. Nebraska Street is not a street that they should be driving down. They should be going down "A" Street.

Council member Scribner stated that the big garbage trucks do far more damage than the MRI truck.

Council member Svoboda stated that when the MRI truck is driving down that road you can feel his rumbling.

Council member Kroesing asked if this was all because of one truck.

Council member Svoboda stated that the MRI truck uses Nebraska Street consistently but there are other trucks that use it to go to David Place.

Mayor Zavodny asked Council member Scribner what he would suggest since he had the most experience driving a truck. He stated that we have to give them some alternative.

Council member Scribner stated that if it is the MRI truck that is doing this then we need to tell the hospital that they can't use Nebraska Street because they know when they are scheduled.

Mayor Zavodny asked if we have an alternative for them.

Council member Scribner stated that they need to use "A" Street and 10<sup>th</sup> Street and we will need to have the trees trimmed on 10<sup>th</sup> Street.

City Attorney Jim Egr stated that he is on the hospital board and he felt that all they would need to do is contact Don Naiberk and tell him that they would like the MRI truck driver to use "A" Street and 10<sup>th</sup> Street and that the trees on 10<sup>th</sup> Street will be trimmed. He stated that he thinks that Don would work with you to get the company to do that.

Mayor Zavodny stated that this has been going on for a while now and should we try this before we take the next step.

Council member Scribner made a motion to table posting signs that Nebraska Street is not a truck route. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried. Council members Rogers and Kroesing were absent.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Rogers seconded the motion. Voting AYE: Council members Vandenberg, Svoboda, Kroesing, Rogers, Scribner and Smith. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:33 p.m.



CERTIFICATION OF MINUTES  
May 8, 2013

I, Tami L. Comte, duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of May 8, 2013; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

\_\_\_\_\_  
Tami L. Comte, Interim City Clerk