

## **ARTICLE 1**

### **GENERAL PROVISIONS**

#### **1.1    TITLE**

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

#### **1.2    JURISDICTION**

The provisions of these Regulations shall apply within the planning jurisdiction of Wymore, Nebraska, as established on the map entitled "The Official Zoning Map of the City of Wymore, Nebraska." The jurisdiction includes the zoning areas within and up to one mile of the corporate limits of the City of Wymore, Nebraska.

#### **1.3    PURPOSE**

In pursuance of the authority conferred by Sections 19-901 through 19-914 of Nebraska Statutes as amended, this ordinance is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants in the City of Wymore by regulating and restricting the height, number of stories, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes in accordance with the Wymore Comprehensive Plan and the zoning maps adopted herewith.



## ARTICLE 2

### APPLICATION OF REGULATIONS

#### **2.1 GENERAL**

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

#### **2.2 ZONING AFFECTS EVERY BUILDING AND USE**

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

#### **2.3 YARD AND LOT REDUCTION PROHIBITED**

No yard or lot existing at the time of passage of this ordinance shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by these regulations.

#### **2.4 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. Where applicable, Municipal, State, or Federal standards which are more restrictive than those contained herein, the more restrictive standards shall apply.

#### **2.5 NONCONFORMITIES**

Nonconformities; Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses.

**2.51 NONCONFORMING LOTS OF RECORD:** The Zoning Administrator may issue a Permit for any nonconforming lot of record provided that:

Said lot is shown by a recorded plat or deed to have 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 not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all required yard regulations for the district in which it is located.

**2.52 NONCONFORMING STRUCTURES**

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 use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled, or rebuilt; 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.

Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its assessed fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of sixty (60) percent or less of its assessed fair market value, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration is actually begun one (1) year after the date of such partial destruction and is diligently pursued to completion.

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

## **2.53 NONCONFORMING USES**

**Authority to Continue:** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

**Ordinary Repair and Maintenance:**

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official in charge of protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

**Extension:** A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to, the extension of such use to any structure, or land area, other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

**Enlargement:** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

**Damage or Destruction:** In the event that a nonconforming building or use is damaged to the extent of more than sixty (60) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

## ARTICLE 3

### GENERAL DEFINITIONS

#### 3.1 GENERAL PROVISIONS

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

**3.11 TENSE:** Words used in the present tense include the future tense.

**3.12 NUMBER:** Words used in the singular include the plural, and words used in the plural include the singular.

**3.13 SHALL AND MAY:** The word "shall" is mandatory; the word "may" is permissive.

**3.14 HEADINGS:** In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

#### 3.2 GENERAL TERMINOLOGY

The word "City" shall mean the City of Wymore Nebraska. The word "Governing Body" shall mean the City Council of Wymore, Nebraska. The words "Planning Commission" shall mean the Planning Commission of Wymore duly appointed by the governing body of the City of Wymore.

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

#### 3.3 DEFINITION

For the purpose of this Ordinance certain words and terms used herein are defined as follows;

**ACCESSORY USE OF BUILDING:** A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile towers of less than 100 feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure. Accessory use of building shall not include a commercial trailer defined in section 60-301(5) RS Neb. that is placed on property after its wheels, axles, springs and towing tongue have been removed and is intended to be used for the shelter, protection or storage of property.

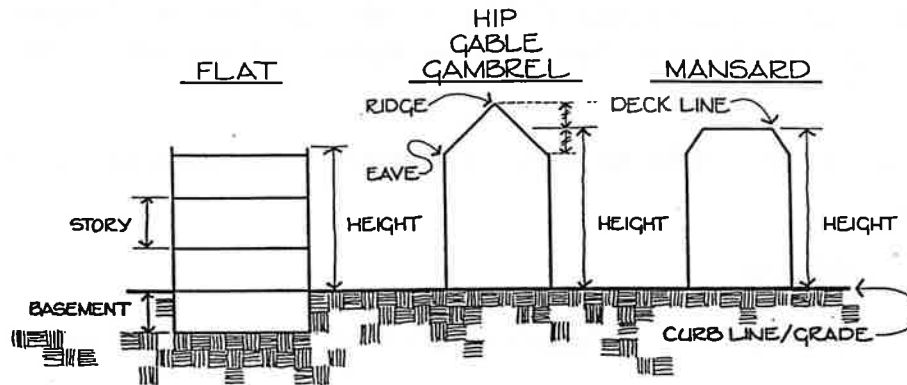
**AGRICULTURAL FARM OR OPERATION:** A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least ten (10) acres and which produces one thousand dollars (\$1,000) or more of farm products each year.

**ALLEY:** is a public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

**BUILDABLE AREA:** The portion of a lot remaining after required yards have been provided.

**BUILDING:** An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

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



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

**CAMP GROUNDS:** Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

**CHILD CARE CENTER:** A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.



**CHILD CARE HOME:** A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

**CONDITIONAL USE:** A use which is allowed in a zone when specified conditions have been complied with as identified for each district as a conditional use. A conditional use permit is reviewed and issued by the zoning administrator.

**DWELLING:** Any building or portion thereof which is designed and used exclusively for residential purposes.

**DWELLING, MULTIFAMILY:** A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

**DWELLING, SINGLE FAMILY:** A dwelling having accommodations for and occupied by one (1) family.

**DWELLING, TWO-FAMILY:** A residential building containing two (2) dwelling units entirely surrounded by open space on the same lot.

**DWELLING UNIT:** consists of one or more rooms which are arranged, designed or used as a separate living quarters by a single family or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each "dwelling unit".

**EASEMENT:** A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

**FARM RESIDENCE:** Residential dwellings located on a farm, including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

**FARMSTEAD:** Any building site that includes at least two (2) buildings that have combined assessed valuation for tax purposes of at least \$5,000 as of the date on which these regulations go into effect.

**GROUP HOME:** means a facility which houses more than five (5) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

**HOME OCCUPATION:** An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

**LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS:** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days.

**LANDFILL:** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**LOT:** A parcel of land occupied or intended for occupation by a use permitted in this Ordinance and fronting upon a street or road.

**LOT, CORNER:** A lot abutting two or more streets or roads at their intersection.

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

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street or road.

**LOT OF RECORD:** A lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

**MANUFACTURED HOME:** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

**MOBILE HOME:** A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

**MOBILE HOME PARK:** Any area of land which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on 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 (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

**MODULAR HOME:** Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

**NONCONFORMING LOT OF RECORD:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the approval date of this Ordinance and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

**NONCONFORMING STRUCTURE:** An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

**NONCONFORMING USE:** An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

**PARKING SPACE, OFF-STREET:** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

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

**RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

**SANITARY LANDFILL:** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SANITARY TRANSFER STATION:** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SALVAGE OR JUNK YARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

**SPECIAL USE PERMIT:** A written permit issued with authorization of the applicable governing body. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

**STREET:** All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

**STREET, CENTER LINE:** A line midway between street lines.

**STREET LINE:** A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, street signs, bridges and culverts.

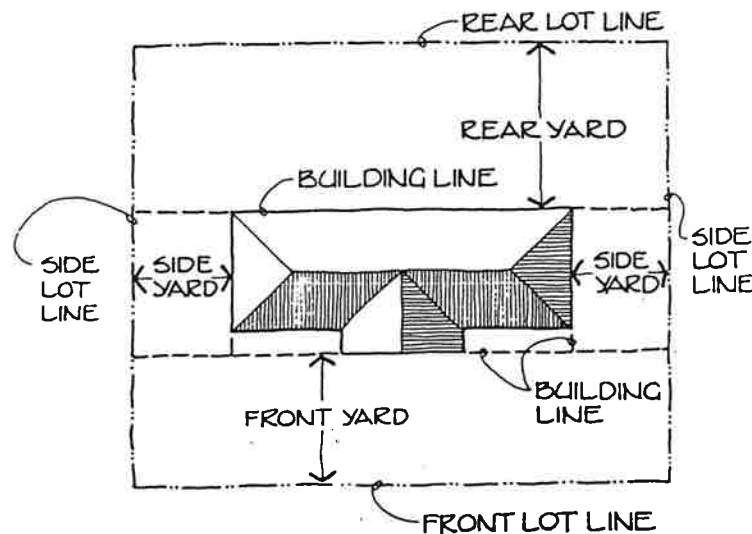
**STRUCTURAL ALTERATION:** Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

**TOWNHOUSE:** One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

**VARIANCE:** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

**YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

**YARD, FRONT:** A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

**YARD, REAR:** A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

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

**YARD, SIDE:** A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

**ZONING BOARD OF ADJUSTMENT:** The legally appointed board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official maps as defined within this ordinance and in accordance with the laws of the State of Nebraska.

**ZONING DISTRICT:** The term "Zoning District" means an area delineated on a zoning map for which uniform use regulations are specified.

**ZONING MAP:** The term "Zoning Map" means a map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.

**ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the governing body to administer the requirements of the zoning regulations.

## ARTICLE 4

### ESTABLISHMENT AND DESIGNATION OF DISTRICTS

#### 4.1 PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body shall not hold its public hearings or take action until it has received the final report of the Planning Commission.

#### 4.2 DISTRICTS CREATED

For the purpose of this Ordinance, there are hereby created zoning districts, as named and described in Article 5 of this Ordinance.

AGR Agriculture Residential District  
R-1 Residential Single Family District  
R-2 Residential Single and Multifamily District  
R-3 Residential Mobile Home/Single and Multifamily District  
C-1 General Commercial District  
C-2 Highway Commercial District  
I Industrial

#### 4.3 OFFICIAL ZONING MAP

1. The boundaries of the district are shown upon maps, which are made a part hereof by reference, which map(s) are designated as the City of Wymore Zoning District Map, dated \_\_\_\_\_ and signed by the Mayor and attested by the City Clerk and hereinafter referred to as the "Official Zoning Maps."
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this ordinance shall be maintained in the office of the City Clerk for the use and benefit of the public.

3. 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(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body, with an entry on the Official Zoning Map(s) as follows:

"On (date), by official action of the City Council, the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), which entry shall be signed by the Mayor and attested by the City Clerk."

No amendment to this ordinance which involves matter portrayed on the Official Zoning Map(s) shall become effective until after such change and entry have been made on said map(s).

4. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in this ordinance.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the City Council, may, by ordinance, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).

The new Official Zoning Map(s) may correct drafting or other errors or omissions in the prior Official Zoning Map(s), but no such correction shall have the effect of amending the original Official Zoning Map(s) or any subsequent amendment thereof.

#### **4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following City limits shall be construed as following such City limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;



5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. 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, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.



**ARTICLE 5**  
**ZONING DISTRICTS**

**5.1 AGR AGRICULTURE RESIDENTIAL DISTRICT**

**5.11 INTENT:** This district is intended for general agricultural purposes within one mile of the City of Wymore.

**5.12 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings, ranch and farm residences;
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations.
3. Public facilities and utility distribution systems;
4. One additional single family, ranch and farm residence for the purpose of housing relatives or agricultural workers; and
5. Churches, places of worship and cemeteries.

**5.13 PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8.2; and
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

**5.14 PERMITTED SPECIAL USES:** A building or premise may be used for the following purposes in the "AGR" Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Sewage disposal and water systems, including agricultural irrigation wells;
2. Public and private uses including parks, playgrounds, golf courses, campgrounds, recreation uses, riding stables, dude ranches, public utilities and utility distribution system;
3. Flood, erosion and sediment control projects;
4. Broadcast towers and stations, including Amateur Radio or land mobile towers of more than 100 feet;
5. Bed and breakfast establishments;
6. Salvage or junk yard in accordance with Section 6.3;
7. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
8. Expansion of existing or development of new livestock confinement facility or operation; and

Other Conditions include:

1. Tract of land must be located at least one-eighth (1/8) mile from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the owner and/or operator of the subject facility; and
  2. Total limit of livestock at one facility located within Wymore's one-mile planning jurisdiction shall not exceed a combination of 50 head.
  3. No lagoons permitted.
9. Landfills and sanitary landfills in conformance with Section 6.4.

**5.15 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the AGR Agricultural Residential District.

**5.16 SPECIAL REGULATION:** Provisions must be made for disposal of wastes in accordance with local and state regulations.

**5.17 MINIMUM LOT REQUIREMENTS:**

1. The minimum lot area for AGR uses shall be 10 acres.

**5.18 MINIMUM YARD REQUIREMENTS:** No structure shall be placed within two hundred (200) feet of high water mark of waterways in designated district.

**5.19 MAXIM**





**5.2 R-1 RESIDENTIAL SINGLE FAMILY DISTRICT**

**5.21 INTENT:** This district is intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures by also including the permitted uses set forth in Section 5.22 below.

**5.22 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings;
2. Two family dwellings;
3. Manufactured homes which comply with the provisions of Article 8.3;
4. Public and parochial schools;
5. Public parks, buildings and grounds;
6. Child care homes;
7. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public utilities and utility distribution systems; and
8. Places of worship such as churches and synagogues.

**5.23 PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2.
2. Accessory uses and structures normally appurtenant to permitted uses and structures.

**5.24 PERMITTED SPECIAL USES:** A building or premises may be used for the following purpose in the R-1 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Medical clinics;
2. Mortuaries;
3. Child care center;
4. Museum and art galleries;
5. Nursing homes;
6. Public and private golf courses;
7. Retirement homes;
8. Bed and breakfast homes;
9. Townhouses;
10. Multifamily dwellings;

**5.25 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-1 Residential District.

**5.26 HEIGHT AND AREA REGULATIONS:** The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

	<u>Lot Area</u> (Sq. Ft.)	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Single Family Dwelling	7,000	50'	20'	8'	20'	35'
Two Family Dwelling	3,500 Per Family	50'	20'	8'	20'	35'
Other Permitted Uses	7,000	50'	20'	8'	20'	35'

b) Buildings on corner lots shall provide front yard setbacks of twenty (20) feet on one street side and ten (10) feet on the other front yard and designate remaining yards as one rear and one side yard;

c) Building and structures shall not exceed two and one half (2 ½) stories in height;

d) The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one-hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

**5.27 PARKING REGULATIONS:** Parking within the R-1 Residential District shall be in conformance with the provisions of Article 7 of this ordinance.

**5.28 FENCE REGULATIONS:** Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of sections 8.8 and 8.9 of this ordinance.

**5.29 VISIBILITY AT INTERSECTIONS:** On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of section 8.8 of this ordinance.



### **5.3**

## **R-2 RESIDENTIAL SINGLE AND MULTIFAMILY DISTRICT**

**5.31 INTENT:** It is the intent of this district to provide for single and multifamily residential uses and development of residential dwellings at higher densities. R-2 Residential Districts should be located in a manner to buffer lower density R-1 Residential Districts from more intensive commercial and industrial districts and in locations suited for multifamily uses.

**5.32 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings;
2. Manufactured homes which comply with the provisions of Article 8.3;
3. Two-family dwellings;
4. Multifamily dwellings;
5. Townhouses;
6. Child care homes;
7. Community buildings;
8. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems; and
9. Places of worship such as churches and synagogues.

**5.33 PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures.

**5.34 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the R-2 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Child care center;
2. Bed and breakfast homes;
3. Communication and utility buildings and uses;
4. Medical clinics;
5. Nursing homes;
6. Retirement homes;
7. Mobile homes on permanent foundations and roofs shall have a pitched roof with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run.;
8. Clubs, fraternities, lodges, and meeting places of a non-commercial nature; and
9. Public and/or private golf courses.

**5.35 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-2 Residential District.

**5.36 HEIGHT AND AREA REGULATIONS:** The maximum height and minimum area regulations shall be as follows:

a) General Requirements

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Single Family Dwelling	6,500	50'	20'	5'	15'	35'
Two Family Dwelling	3,250 per family	25' per family	20'	5', or 7 1/2' on corner lots	15'	35'
Multifamily Dwelling	2,200 per family	50'	20'	5', or 7 1/2' on corner lots	15'	45'
Other Permitted Uses	6,500	50'	20'	5'	15'	35'

- b) Buildings on corner lots with a width of fifty (50) feet or less shall provide a second frontage on the street side of not less than seven (7) feet, provided that the buildable width need not be reduced to less than twenty-eight (28) feet, yards remaining shall be designated side yards each with a minimum depth of five (5) feet;
- c) Buildings on corner lots with a width of fifty (50) feet or greater shall provide a second frontage on the street side of not less than fifteen (15) feet, yards remaining shall be designated side yards with a minimum depth of five (5) feet;
- d) Building and structures shall not exceed three (3) stories in height.

**5.37 PARKING REGULATIONS:** Parking within the R-2 Residential District shall be in conformance with the provisions of Article 7 of these regulations.

**5.38 FENCE REGULATIONS:** Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of sections 8.8 and 8.9 of this ordinance.

**5.39 VISIBILITY AT INTERSECTIONS:** On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of section 8.8 of this ordinance.

**5.4 R-3 RESIDENTIAL MOBILE HOME /SINGLE AND MULTIFAMILY DISTRICT**

**5.41 INTENT:** It is the intent of this district to provide for single and multifamily residential uses and development of residential dwellings including mobile homes and mobile home parks. Mobile home parks are considered as a residential use and should be located in areas where services and amenities are available, such as those found in conventional residential uses.

**5.42 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings;
2. Mobile Homes and Mobile Home Parks in accordance with the provisions of Article 8.7
3. Manufactured homes which comply with the provisions of Article 8.3;
4. Two-family dwellings;
5. Townhouses;
6. Multifamily dwellings;
7. Child care homes;
8. Community buildings;
9. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems; and
10. Places of worship such as churches and synagogues.

**5.43 PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures.

**5.44 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the R-3 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Child care center;
2. Bed and breakfast homes;
3. Communication and utility buildings and uses;
4. Medical clinics;
5. Nursing homes;
6. Retirement homes;
7. Funeral homes and mortuaries;
8. Clubs, fraternities, lodges, and meeting places of a non-commercial nature; and
9. Public and/or private golf courses.

**5.45 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-3 Residential District.

**5.46 HEIGHT AND AREA REGULATIONS:** The maximum height and minimum area regulations shall be as follows:

a) General Requirements

	<u>Lot Area</u> (Sq. Ft.)	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Mobile Home	4,000	45'	20'	5'	10'	35'
Single Family Dwelling	6,500	50'	20'	5'	15'	35'
Two Family Dwelling	3,250 per family	25' per family	20'	5', or 7 ½' on corner lots	15'	35'
Multifamily Dwelling	2,200 per family	50'	20'	5', or 7 ½' on corner lots	15'	45'
Other Permitted Uses	6,500	50'	20'	5'	15'	35'

- b) Buildings on corner lots with a width of fifty (50) feet or less shall provide a second frontage on the street side of not less than seven (7) feet, provided that the buildable width need not be reduced to less than twenty-eight (28) feet, yards remaining shall be designated side yards each with a minimum depth of five (5) feet;
- c) Buildings on corner lots with a width of fifty (50) feet or greater shall provide a second frontage on the street side of not less than fifteen (15) feet, yards remaining shall be designated side yards with a minimum depth of five (5) feet;
- d) Building and structures shall not exceed three (3) stories in height.

**5.47 PARKING REGULATIONS:** Parking within the R-3 Residential District shall be in conformance with the provisions of Article 7 of these regulations.

**5.48 FENCE REGULATIONS:** Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of sections 8.8 and 8.9 of this Ordinance.

**5.49 VISIBILITY AT INTERSECTIONS:** On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of section 8.8 of this ordinance.

## **5.5**    **C-1 GENERAL COMMERCIAL DISTRICT**

**5.51 INTENT:** This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use are permitted in this district.

**5.52 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Apartments on floors other than ground floor;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bakery;
5. Banks, savings and loan associations, credit unions and finance companies;
6. Barbershops, beauty parlors and shoeshine shops;
7. Business offices;
8. Child care homes and centers;
9. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
10. Convenience store or filling station;
11. Detached banking facilities (ATM);
12. Dry cleaning or laundry establishments;
13. Food service, restaurants and taverns;
14. Food storage lockers;
15. Funeral homes and mortuaries;
16. Garden centers;
17. Motels and hotels;
18. Museums and art galleries;
19. Office buildings;
20. Parking lots and other off-street parking facilities;
21. Personal and professional services;
22. Photography studios;
23. Private schools, including but not limited to business or commercial schools, and dance or music academies,
24. Public and private charitable institutions;
25. Public parks, buildings and grounds;
26. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities;
27. Retail store or business;
28. Public utility facilities;
29. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;
30. Service stations; and
31. Stores or shops for the sale of goods at retail and/or wholesale.

**5.53 PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to permitted uses and structures and to uses and structures permitted as special uses.

**5.54 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the C-1 Commercial Business District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Multifamily dwellings;
2. Bed and breakfast guest home; and
3. Recycling center.

**5.55 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-1 Commercial Business District.

**5.56 SCREENING REQUIREMENTS:**

1. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**5.57 PROHIBITED USES:**

1. No use shall be permitted and no process, equipment or materials shall be used which are found by the City to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

**5.58 HEIGHT AND AREA REGULATIONS:** The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted Uses	3,750	25'	0'	0' or 10' when abutting a residential district	15'	45'
Multifamily Dwelling	2,200 per Family	50'	25'	5' or 7½' on corner lots	15'	45'

**5.59 FENCE REGULATIONS:** Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of sections 8.8 and 8.9 of this ordinance.

**5.510 VISIBILITY AT INTERSECTIONS:** On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of section 8.8 of the ordinance.





**5.6**

**C-2 HIGHWAY COMMERCIAL DISTRICT**

**5.61 INTENT:** The C-2 Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

**5.62 PERMITTED PRINCIPLE USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Automobile sales;
2. Automobile wash facilities;
3. Churches and other religious institutions;
4. Construction sales and services;
5. Commercial operations and businesses, intended for the purpose of servicing travel and recreational users;
6. Commercial recreational facilities (bowling alleys, miniature golf courses and similar uses);
7. Convenience store or filling station;
8. Detached banking facilities (ATM);
9. Electric and telephone substations;
10. Farm implement sales and services;
11. Garden centers and nurseries;
12. Irrigation equipment sales and services;
13. Mini storage facilities;
14. Mobile homes sales;
15. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
16. Restaurants and cafes;
17. Service stations;
18. Single family homes;
19. Stores or shops for sale of goods at retail;
20. Transportation warehousing;
21. Trucks and freight terminals;
22. Utilities, including shops and offices; and
23. Medical clinics.

**5.63 PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.

**5.64 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the C-2 Highway Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna; and
4. Recycling centers.

**5.65 SCREENING REQUIREMENTS:**

1. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**5.66 PROHIBITED USES:**

1. All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the C-2 Highway Commercial District.

**5.67 HEIGHT AND AREAS REGULATIONS:** The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted Uses	7,500	50'	25'	7'	20'	35'

**5.68 PARKING REGULATIONS:**

1. Parking within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

**5.69 FENCE REGULATIONS:** Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of sections 8.8 and 8.9 of this ordinance.

**5.610 VISIBILITY AT INTERSECTIONS:** On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of section 8.8 of the ordinance.

## **5.7 INDUSTRIAL DISTRICT**

**5.71 INTENT:** This district is designed to provide for a wide range of industrial and related uses.

**5.72 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Agriculture, excluding the expansion of existing or development of commercial livestock facilities/operations;
2. Animal care;
3. Automobile sales and services;
4. Automotive wash facilities;
5. Bottling works;
6. Building material sales, except for ready-mix concrete plants and similar uses which emit particulate, odor or smoke;
7. Carpenter, cabinet, plumbing or sheet metal shops;
8. Grain storage;
9. Construction sales and services;
10. Dry cleaning and/or laundry plants;
11. Farm implementation sales and services;
12. Farm produce sales;
13. Food service, restaurants and taverns;
14. Freight and truck terminals;
15. Frozen food lockers;
16. Furniture warehouses;
17. Garden centers and nurseries;
18. Groceries, retail and wholesale;
19. Light manufacturing operations, providing that such use is not noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulates, fumes, gas, odor, or smoke;
20. Machinery sales and storage lots;
21. Mobile and modular home sales and manufacturing;
22. Newspaper publishing plants;
23. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools and junior high schools, high schools; private non-profit schools, churches, parsonages, and other religious institutions; parks and playgrounds;
24. Public utility and public service uses;
25. Transportation warehousing;
26. Warehouse or storage houses;
27. Wholesale sales and services; and
28. Any similar uses that is determined by the City Council after referral to and recommendation by the Planning Commission to be of an industrial similar to the above listed uses.

**5.73 PERMITTED ACCESSORY USES:** Accessory uses and structures normally appurtenant to permitted uses and structures.

**5.74 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Junk and salvage yard (in conformance with Article 6.3);
2. Recycling center; and
3. Ethanol and/or alcohol plants.

**5.75 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Industrial District.

**5.76 HEIGHT AND AREA REGULATIONS:** The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

Permitted Uses	Lot Area (Sq. Ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
	10,000	50'	35'	0', 10' when abutting a residential district	45'	35'

**5.77 PARKING REGULATIONS:** Parking within the I-1 Industrial District shall be in conformance with the provisions of Article 7 of these regulations.

**5.78 FENCE REGULATIONS:** Fences, walls and hedges within the R-1 Residential District shall be in conformance with the provisions of sections 8.8 and 8.9 of this ordinance.

**5.79 VISIBILITY AT INTERSECTIONS:** On a corner lot within the R-1 Residential District, an unobstructed sight distance shall be provided for safe traffic operations in conformance with the provisions of section 8.8 of this ordinance.

## ARTICLE 6

### SPECIAL USE PERMIT

#### 6.1 GENERAL

The City Council may authorize by special permit after public hearing, any of the buildings or uses designated in the Section 5 Zoning Districts of this Ordinance as permitted special uses.

#### 6.2 PROCEDURES

Such application shall be in writing, filed in the office of the City Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the governing body. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the City Council, within thirty (30) days. Upon hearing, the City Council may approve or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the City Council in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the City, one time at least ten (10) days prior to such hearing. (Ref. 19-904 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing.

Except as otherwise provided herein, no special use permit shall be granted by the City Council, without an affirmative vote of a majority of all members of the City Council and unless the proposed use is found to:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the City Council.

### **6.3 SALVAGE OR JUNK YARD**

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AGR and I Zoning Districts under the following conditions:

1. Located on a tract of land at least one-fourth (1/4) mile from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the City Council for the protection of the general health and welfare.

In making any decision granting a special use permit, the City Council shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

#### **6.4 LANDFILLS AND SANITARY LANDFILLS**

Private landfill operations shall only be allowed by special permit in the AGR Agriculture District upon prior approval of the Nebraska Department of Health and Human Services System and with conformance to the following conditions:

1. Located on a tract of land at least three hundred (300) feet from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all material within the yard and no material shall protrude above the fence.
3. No material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the City Council for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review and renewal by the City Council.

In making any decision granting a special use permit, the City Council shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.





## ARTICLE 7

### PARKING REGULATIONS

#### 7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Ordinance shall be located on the same lots as the use it serves.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.
5. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

**7.2 OFF-STREET PARKING REQUIREMENTS**

At the time of construction, or enlargement of more than 50 percent of an existing structure or building or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1. Residential	
Single family, two-family dwelling	2 per dwelling unit
Apartments	
Efficiency and one-bedroom	1 per dwelling unit
Two-bedrooms	1 ½ per dwelling unit
Three or more bedrooms	2 per dwelling unit
2. Mobile Trailer Park	2 per trailer unit
3. Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4. Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift
5. Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 for every 4 seats
6. Bowling Alley	2 for each alley
7. Retail sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8. Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9. Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

7.3 **OFF-STREET LOADING REQUIREMENTS**

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of 5,00 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

<u>Number</u>	<u>Loading Area</u>	<u>Gross Floor Area</u>
1. One	500 square feet	For every 5,000 to 20,000 square feet
2. One	500 square feet	For every 20,000 square feet or fraction thereof



## ARTICLE 8

### ACCESSORY USES AND SUPPLEMENTAL REGULATIONS

#### 8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Any accessory building shall have a minimum setback of three (3) feet and all garage entrances must have a minimum ten (10) feet long drive when garage opening is perpendicular to the access street or alley. Attached garages are considered part of principal building.

#### 8.2 HOME OCCUPATIONS

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

The following conditions and restrictions shall apply to such customary home occupations:

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.
- b. Signs and displays shall be limited to one (1) non-illuminated sign not exceeding six (6) square feet in area.
- c. No equipment or machinery shall be used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

**8.3 MANUFACTURED HOMES:** All manufactured homes located outside mobile home parks shall meet the following standards:

- 8.31 The home shall have no less than nine hundred (900) square feet of floor area.
- 8.32 The home shall have no less than an eighteen (18) foot exterior width.
- 8.33 The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
- 8.34 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.
- 8.35 The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- 8.36 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- 8.37 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- 8.38 The home must meet building code requirements adopted by the City.

**8.4 YARD REGULATIONS:**

**8.41 FRONT YARDS:** The front yards heretofore established shall be adjusted in the following cases:

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

**8.42 STRUCTURAL PROJECTIONS:** The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

**8.5**

**EXCEPTIONS TO HEIGHT REGULATIONS:** The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

**8.6**

**EXCEPTION TO LOT SIZE REQUIREMENTS:** If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

**8.7**

**MOBILE HOME PARKS:** Mobile Home Parks shall only be allowed in the R-3 Zoning District under the following conditions:

1. Individual mobile home lots shall have an area of not less than four thousand (4,000) square feet per single wide mobile home and six thousand (6,000) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed six (6).
2. Mobile homes shall be situated on individual lots so there will be a minimum of fifteen (15) feet between mobile homes and that each mobile home will be set back at least fifteen (15) feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than ten (10) feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar mobile home park needs.
3. The mobile home park shall have direct access to a public street or highway by a right-of-way at least fifty (50) feet in width and a minimum length of one hundred (100) feet to permit the easy entrance and exit from the mobile home park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum clear width of twenty (20) feet paved with a suitable dustless material.

4. Walks and Lighting. Walkways not less than four (4) feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard surfaced and lighted at night with a minimum illumination of twenty-five (25) watt lamps spaced at intervals of not more than one hundred (100) feet.
5. Off-Street Parking. Two off-street parking spaces for each mobile home space shall be provided at each mobile home space or in group parking. Each off-street parking space shall be at least three hundred (300) square feet.
6. The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.

The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" Minimum) placed on solid uniform soil with at least two (2) standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4" concrete cap covering the two (2) concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such clocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than ten (10) feet apart, and not more than five (5) feet from the ends of the unit.

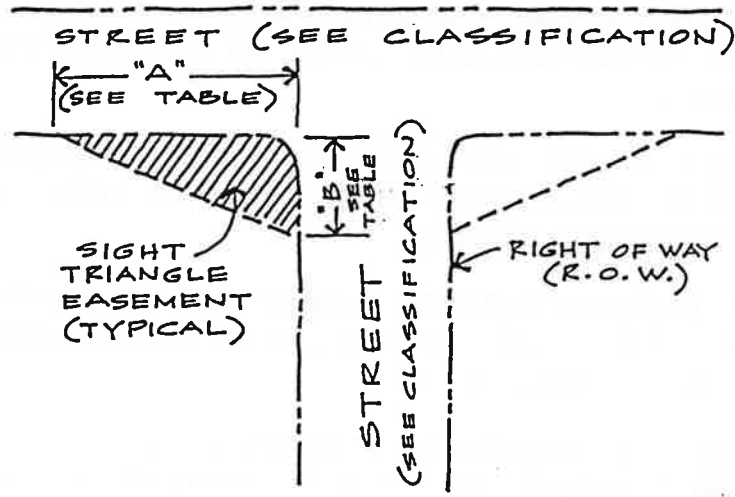
7. The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-lace concrete "dead men", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designated to resist the action of frost in the same manner as the foundation system.
8. The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.



Permit the Creation of Mobile Home Parks in Which the Individual Mobile Home Lots Are Available For Sale. Wherever a mobile home park is permitted by this Ordinance to be created through the granting of conditional uses, or otherwise, said mobile home park may be designed to permit the sale of the individual mobile home lots within said park. A proposed mobile home park in which the individual mobile home lots will be offered for sale must meet all of the following requirements:

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

**8.8 VISIBILITY AT INTERSECTIONS:** Sight Triangle Easement: On a corner lot in all districts, except where buildings have, or are allowed to build on the property line, continuous unobstructed sight distance shall be provided for safe traffic operations. No obstruction, including fences, hedges, walls, shrubbery or other manmade or natural obstructions shall exist between a height of three (3) feet and ten (10) feet within a sight triangle of the following dimensions:



REQUIREMENT BY STREET CLASSIFICATION (MEASURED ALONG R.O.W.)

"B" (DISTANCE IN FEET)

		"B" (DISTANCE IN FEET)			
		LOCAL STREET	COLLECTOR STREET	ARTERIAL STREET	
"A" (DISTANCE IN FEET)	30	LOCAL STREET	30	100	130-150
	100	COLLECTOR STREET	30	100	130-150
	130-150	ARTERIAL STREET	30	100	130-150

**SIGHT TRIANGLE**

Source: The Illustrated Book of Development Definitions, (Maskowitz, Harvey and Carl Lindbloom, 1995).

**8.9 FENCE REGULATIONS:** Fences, Walls and Hedges: Notwithstanding other provisions of this ordinance, fences, walls and hedges may be permitted in any required yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over three and one half (3 1/2) feet in height. Additionally, no fence, wall or hedge shall exceed 2 ½ feet in height when located within the site triangle of a corner lot. The following regulations shall apply to the construction of fences.

1. No solid fence shall be constructed closer to the street than the property line. No fence shall be closer than two (2) feet to the sidewalk.
2. No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, or other similar material. No component of a front yard fence shall exceed 3 ½ feet in height, nor shall any structural member exceed 36 inches in cross-sectional area.
3. No fence shall be constructed which will constitute a traffic hazard as identified in the site triangle of a corner lot (see Article 5, Chapter 9).
4. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.
5. No fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet.
6. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.
7. In commercial and industrial districts, maximum height of fences shall be eight (8) feet. When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his direction, may allow greater heights.
8. All fences constructed in the City of Wymore shall comply with the provision of this section and obtain a building permit.

**8.10 SIGN REGULATIONS:** The following regulations shall govern the location, area and type of signs permitted within the City:

A. General sign requirements:

1. All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a menace to the safety of persons or property.
2. No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential District, because of lighting glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation.
3. No "revolving beacon" or "fountain" signs shall be permitted in any district.
4. No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.
5. Ground signs shall not be located on public property except by specific approval of the City Council.
6. Temporary signs or banners on or over public property may be authorized by the City Council for a period not to exceed ten days.
7. Signs projecting over a street, alley, or other public space shall project no more than ten feet and be no closer than two feet to a plumbline from curbline; clearance below such signs shall be a minimum of nine feet.

B. Residential districts:

1. One identification sign shall be permitted per residential use provided such sign does not exceed two square feet in area; said sign may be wall, pedestal, ground, or projecting type (but not projecting over public property).
2. One sign of a temporary nature, such as "for sale" or "for rent" shall be permitted per residential use provided such sign does not exceed six square feet and is not lighted; said sign may be wall, pedestal or ground type.

C. Public or semi-public uses. One identification sign shall be permitted per public or semi-public use provided such sign does not exceed ten square feet in area; said sign may be wall, pedestal, ground, or projecting type.

D. AGR, C-1, C-2, and I Districts. No restrictions except the general sign requirements of Section 3 above.

## ARTICLE 9

### BOARD OF ZONING ADJUSTMENT

#### 9.1 CREATION, MEMBERSHIP

The City Board of Zoning Adjustment is hereby created and shall be known as the City Board of Zoning Adjustment. The members of said board shall be appointed by the City Council.

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the planning commission by such member shall also result in the immediate loss of membership on the City Board of Zoning Adjustment.

Said board 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 (3) years and removable for cause by the City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant.

#### 9.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the Mayor and at such times as the Board may determine. 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 City Clerk and shall be a public record.

#### 9.3 INTERPRETATIONS AND VARIANCES

**9.31** The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.01 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or planning commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and

3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning 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 enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
  - a. The strict application of the regulation 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.

**9.32** 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 reasonable and practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

**9.33** In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, 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 shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

**9.4**    **PROCEDURES FOR REQUESTING A VARIANCE**

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any official or department. The appeal filed in writing shall define the appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Board of Zoning Adjustment all the paper constituting the record upon which the action appealed from was taken.

9.42 The Chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

**9.5**    **APPEALS FROM THE BOARD OF ZONING ADJUSTMENT**

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the City, may seek review of such decision by the district court for the City in the manner provided by the laws of the State and particularly by Section 23-168.04.





## ARTICLE 10

### ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

#### 10.1 ENFORCEMENT

**10.11 ZONING ADMINISTRATOR:** This ordinance shall be enforced and administered by a Zoning Administrator who shall be appointed by the City Council and who may be provided with the assistance of such other persons as the City Council may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all building permits and occupancy certificates when compliance is made with this ordinance.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this ordinance.
3. Receive, file and forward to the Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Ordinance including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
  - a. The compiled text of the Zoning Ordinance and amendments thereto, including all amendments adopted through the preceding December 31; and
  - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding December 31.
6. Whenever the Zoning Administrator shall find that any of the provisions of this ordinance have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this ordinance to insure compliance with, or to prevent violation of, its provisions.

## **10.2 BUILDING PERMITS REQUIRED**

**10.21 GENERAL:** No building or other structure shall be erected, moved, added to, or structurally altered without a building permit first having been issued by the Zoning Administrator. No building permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this ordinance and with all other applicable codes, regulations and laws of the City of Wymore and with all orders, and variances lawfully issued by the Board of Adjustment. A building permit shall not be required for agricultural (nonresidential) buildings or structures in the AGR Agricultural Districts or for improvements which have a value of one thousand dollars (\$1,000) or less. Construction must begin within ninety (90) days of issuance of the permit. The building permit will be valid for a period of two (2) years.

**10.22 APPLICATION FOR BUILDING PERMIT:** All applications for a building permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of this ordinance.

**10.23 APPROVAL OR DISAPPROVAL OF PERMIT:** The Zoning Administrator shall examine all applications for building permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the building permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the Zoning Administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

**10.24 APPEAL FROM APPROVAL OR DISAPPROVAL:** An appeal from approval or disapproval of any application shall be made to the Board of Zoning Adjustment in writing within ten (10) days after the determination of the Zoning Administrator has been filed.

### **10.3    CERTIFICATION OF OCCUPANCY REQUIRED**

**10.31 GENERAL:** No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a building permit, nor shall any change be made in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy shall be issued by the Zoning Administrator in accordance with this ordinance.

**10.32 TEMPORARY CERTIFICATE:** Upon request, the Zoning Administrator may issue a partial certificate of occupancy for a period not to exceed ninety (90) days, for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.

**10.33 APPLICATION FOR CERTIFICATE OF OCCUPANCY:** All applications for certificate of occupancy shall be made by the owner or his/her agent and shall be accompanied by an affidavit of the owner, registered architect, licensed professional engineer, or superintendent of construction who shall state that he has examined the approved plans of the structure, that said structure has been erected in accordance with the approved plans and that it complies with this ordinance and all local code and resolutions/ordinances governing building construction. The application and affidavit shall be filed with the Zoning Administrator.

**10.34 ISSUANCE OF CERTIFICATE OF OCCUPANCY:** Before issuing a certificate of occupancy, the Zoning Administrator shall examine all buildings, structures or sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy. The Zoning Administrator shall maintain a record of all examinations and inspections, together with a record of findings of violations of the law.

**10.35** A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used as authorized in the certificate of occupancy.

### **10.4    SCHEDULE OF FEES**

**10.41** The schedule of fees shall be established for this Zoning Ordinance by the City Council. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.



## ARTICLE 11

### AMENDMENT

#### **11.1 GENERAL**

The City Council may from time to time supplement, change or generally revise the boundaries or regulations contained in this ordinance. A proposal for such amendment may be initiated by the City Council, Planning Commission or upon application of the owner of the property affected. A filing fee established by the City Council is required for each application to be considered by the Planning Commission.

#### **11.2 SUBMISSION TO PLANNING COMMISSION**

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this ordinance, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

#### **11.3 AMENDMENT CONSIDERATION AND ADOPTION**

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the ordinance except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (½) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the City Council, if it approves such recommendation, may either adopt such recommendation by ordinance or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the City Council may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning commission which the City Council disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the ordinance shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the ordinance incorporating the same and reincorporate such Map as amended.

#### **11.4 PROTEST**

Regardless of whether or not the City Council approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the City Council.

## ARTICLE 12

### COMPLAINTS, PENALTIES, REMEDIES

#### **12.1 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by these regulations.

#### **12.2 PENALTIES**

The owner or agent of a building or premises in or upon which a violation of any provisions of this ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor. Each and every day that such violation continues after notification 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.

#### **12.3 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 these regulations 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 13**

### **LEGAL STATUS PROVISIONS**

#### **13.1 SEPARABILITY**

Should any article, section or provisions of these regulations be declared by the courts to be unconstitutional or invalid, such decisions 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.

#### **13.2 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 these regulations.

#### **13.3 REPEAL OF CONFLICTING ORDINANCES**

All other ordinances and regulations in conflict with this ordinance are hereby repealed to the extent necessary to give these regulations full force and effect.

#### **13.4 EFFECT DATE**

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

