

**CITY OF PAWNEE CITY
PLANNING COMMISSION**

**BYLAWS
AND
RULES OF PROCEDURE**

Adopted
February 18, 1999

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BYLAWS AND RULES OF PROCEDURE

PLANNING COMMISSION PAWNEE CITY, NEBRASKA

ARTICLE I - AUTHORITY AND DUTIES

SECTION 1. AUTHORITY

The City of Pawnee City Planning Commission (hereinafter called "Commission") exists as an advisory planning commission under authority of the code of ordinances of the City of Pawnee City, Nebraska, and any amendments thereto.

SECTION 2. DUTIES.

The duties of the City of Pawnee Planning Commission shall be those set forth under Nebraska State Statutes and the Pawnee City Code, together with such as may be assigned to it by the city council of the City of Pawnee City, Nebraska.

SECTION 3. MEMBERSHIP

The Commission shall consist of five (5)-regular members and one (1) alternate member appointed in accordance with the requirements of Nebraska State Statutes, the Pawnee City Code and Pawnee City Ordinance #662.

The alternate member may attend and participate in any meeting of the Commission and may serve as a voting member of the Commission at any time when less than the full numbers of regular Commission members are present and capable of voting.

The Pawnee City City Council shall be notified immediately of any vacancies on the Commission.

SECTION 4. RULES

In all matters not otherwise provided for by statute, ordinance, or these rules, the 21st Century Robert's Rules of Order by Laurie E, Rozakis as interpreted by the Commission's presiding officer, shall govern the conduct of Commission meetings.

- a. Regular Meetings - The Commission shall hold regular monthly meetings on the third Thursday of each month at 4:30 o'clock p.m. whenever the regular monthly meeting date falls on an official holiday of the City of Pawnee City, another date shall be selected. All regular meetings will be held at the Pawnee City Public Library unless notice is published as to the holding of a meeting at another location.

b. Special Meetings - The Chairperson may call Special meetings of the Commission at any time. It shall be the duty of the Chairperson to call a special meeting when requested to do so in writing by three (3) of the regular members of the Commission. The Secretary shall notify all members of the Commission in writing of the special meeting not less than two (2) days in advance of such special meeting. The notice of the special meeting shall specify the purposes the special meeting and no other business may be considered at the special meeting.

c. Cancellation - Whenever there is a lack of business for the Commission consideration, the Chairperson may cancel a regular meeting. Notice of such cancellation shall be given to all members, and the news media shall be notified of such cancellation. Whenever it is determined that a quorum is not available for a regular or special meeting, the Chairperson of the Commission may dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. The Chairperson of the Commission may dispense with a scheduled regular or special meeting in the event of natural disaster, snow emergency, similar causes or good cause. In the event of cancellation for any reason, the Chairperson may require re-notification to interested parties by the Commission as the Chairperson deems appropriate.

ARTICLE II- OFFICERS AND STAFF

SECTION 1. COMMISSION OFFICERS.

At its regular meeting in June each year, the Commission shall elect from its members a Chairperson and vice-Chairperson.

SECTION 2. DUTIES OF COMMISSION OFFICERS

a. Chairperson – The Chairperson shall be one of the Pawnee City citizen members of the Commission. The Chairperson shall preside over Commission meetings and on behalf of the Commission shall exercise general supervision over the affairs of the Commission, the appointment of committees and representatives, the determination of points of order and procedure, and the signing of all official documents. The Chairperson shall have the privileges of discussing all matters before the Commission and of voting thereon.

b. Vice-Chairperson – The Vice-Chairperson shall have authority to act as Chairperson of the Commission during the absence or disability of the Chairperson.

c. Secretary - The zoning administrator of the City appointed by the Mayor or his designee shall act as the Commission secretary. He/she shall certify all official acts of the Commission, including the roll call votes of the Commission on any and all matters for which such vote is required. In the event of the absence or disability of the secretary, his/her designee or another individual appointed by the Mayor shall serve secretary pro tempore.

ARTICLE III- CONDUCT OF MEETINGS

SECTION 1. QUORUM

Three (3) voting members of the Commission shall constitute a quorum. No business shall be transacted nor shall a public hearing be opened at any meeting of the Commission unless a quorum is in attendance.

SECTION 2. VOTING

- a. Majority - No action of the Commission shall be official and effective unless such action is authorized at a regular or special meeting by a majority of the Commission members present and voting at such meeting.
- b. Method - All votes of the Commission on matters requiring a public hearing shall be by voice vote with a record kept as to the vote. Secret ballot votes shall not be permitted except when voting for the Chairperson and vice-Chairperson.
- c. Conflict of interest - A Commission member may not participate in a hearing or decision concerning a matter in which he has a direct or indirect financial interest. A member shall declare for the record such known conflict of interest. The Chairperson of the Commission or the Pawnee City Attorney shall determine questions as to whether such conflict exists. When there is uncertainty as to the applicability of this section, the member shall be automatically disqualified. The Commission shall enter in its records the fact that a member has been disqualified. Members are required to disclose any personal or non-financial interest in any matter before the Commission, and may abstain from participation and voting on such matter. A member who has a conflict of interest shall leave the commission table. Such member may join the audience but may not give testimony on the matter before the Commission. Nothing in this section shall prevent a member of the Commission from presenting a petition on his/her own behalf, but members shall not appear before the Commission on behalf of others.
- d. Required - Except as provided in "c" above, all Commission members present shall vote on each matter for which a hearing is held. An abstention for any other reason shall have the same effect as a negative vote.

Absentee- Absentee or proxy voting shall not be permitted. Members must be present for the hearing in order to be eligible to vote on any matter. In the event that a member is absent for part of a public hearing, such member's eligibility to vote on the matter shall be at the discretion of the presiding officer.

Open Meetings_– All meetings in which official action is taken shall be open to the general public.

SECTION 3. ORDER OF BUSINESS

The order of business of regular meetings of the Commission shall be as listed below, except that said order of business may be changed by the Chairperson upon the consenting vote of a majority of those members present and voting.

- a. Roll call
- b. Approval of minutes of previous meeting.
- c. Communications and bills.
- d. Report of officers and committees.
- e. Old business
 - a. Continued applications
 - b. Tabled applications
 - c. Postponed applications
 - d. Unfinished items
- f. New business.
 - a. Public hearings
 - b. Subdivisions
 - c. Other items
- g. Audience Participation
- h. Adjournment

ARTICLE IV - PUBLIC HEARINGS

SECTION 1. PROCEDURE.

a. Opening the hearing - The Chairperson shall call the number of the item scheduled for public hearing and declare the public hearing open.

b. Record - A record shall be kept of those speaking before the Commission.

c. Order of testimony - The order of testimony shall be as follows:

- 1. Background and comments by the Zoning Administrator of Pawnee City
- 2. Presentation of request by petitioner
- 3. Comments and questions by members of the audience
- 4. Rebuttals if allowed by the Chairperson
- 5. Summation by the petitioner

d. Closing the hearing - After all public comments have been heard under the rules of this section, the presiding officer shall declare the hearing closed and shall call for a motion. Additional public comment shall not be permitted after the close of the hearing. Any motion, which has been made and seconded, is open for discussion by the Commission members, but such motion is closed to discussion by the public unless the presiding officer exercises the authority to limit such discussion by the public or the Commission members.

e. Voting - Each motion on a matter requiring a public hearing shall be by voice vote, in accordance with the provisions of Article III, Section 2 of these rules. At the conclusion of the

vote, the secretary shall report the recorded vote. The vote of each member shall become a part of the record on the petition, and the vote of each member may be disclosed by any Commission officer or the staff to anyone requesting such information.

SECTION 2. CONDUCT

a. Representation - The petitioner may appear in person, by agent, or attorney, and may present any supporting witnesses, evidence, statements and arguments in favor of the request. Those persons in opposition or in favor of the request may appear in person, by agent or by attorney, and may present witnesses, evidence, statements and arguments. Any person interested in any petition shall have the right but shall not be required to enter a written appearance in the hearing.

b. Commission participation - The Commission members shall be provided adequate opportunity to examine witnesses and question any evidence, statements and arguments in the interest of a fair hearing.

c. Identification - All persons wishing to be heard on any matter in a public hearing or other hearing must come before the Commission and provide their names and addresses for the record. Statements or comments from the audience shall not be allowed or accepted as part of the record.

d. Commentary addressed to Commission - All commentary at a public hearing or other hearing shall be addressed to the Commission through its presiding officer. Such commentary shall not be permitted between opposing parties without the consent of such officer.

e. Authority of presiding officer - The presiding officer shall have the authority to prohibit repetitious and irrelevant testimony and shall have authority to limit the length of testimony by each speaker deemed appropriate to a fair hearing.

f. Orderly conduct - Every person appearing before the Commission shall abide by the order and direction of the presiding officer. Discourteous, disorderly or contemptuous conduct shall not be tolerated, and the presiding officer may take such action as is deemed necessary to prevent such conduct or to require the removal from the premises of any disorderly persons by the Pawnee County Sheriff Department.

ARTICLE V -DISPOSITION OF PETITIONS

SECTION 1. MOTIONS.

The final disposition of any petition duly filed and brought before the Commission shall be in the form of a motion, properly adopted, specifically setting forth such disposition. That all motions shall begin with "to move to recommend to City Council" by this body.

SECTION 2. DISMISSAL

a. Failure to Appear - The Commission may dismiss a petition if the petitioner or authorized representative does not appear to present and speak in favor of such petition or if such petition has been improperly filed.

b. Lack of jurisdiction - The Commission shall dismiss a petition if it finds it has no jurisdiction over such matter.

SECTION 3. WITHDRAWAL

a. Without prejudice - Any petition may be withdrawn without prejudice provided a written request for withdrawal signed by the petitioner or an authorized representative is received by the Commission's staff at least fourteen (14) days before the scheduled hearing.

b. With prejudice - Any request for withdrawal made less than fourteen (14) days before the scheduled hearing may be granted or denied by the Commission. Such request may be in writing and must state the reasons for the request. If the Commission votes to permit withdrawal, the petition shall not again be placed on the agenda for hearing within a period of three (3) months from the date of the originally scheduled hearing, except upon a motion duly adopted by a majority of the members of the Commission to permit such rescheduling.

c. Not permitted - No petition may be withdrawn after a motion has been made and seconded and the presiding officer has ordered a vote.

SECTION 4. AMENDMENT

a. Increased density or intensity - No petition can be amended in a manner which increases the intensity of use (e.g., adds additional lots or land, changes to a zoning district permitting more users or more intensive uses) after the filing deadline. Any such amendment request will result in postponing the scheduling of the petition for one month. If notice in accordance with Article VII already has been given the item as amended shall be re-advertised and new notice given to interested parties. The petitioner shall be required to pay the costs of such re-advertising and re-notification.

b. Decreased density or intensity - It shall be within the discretion of the Commission to approve a petitioner's request to amend the petition in a manner, which decreases the intensity of use (e.g., removes lots or land, changes to a zoning district, which is more restrictive). Any interested parties may be heard on the subject of such amendment. The Commission may require such amendment. The Commission may require such amended petition to be continued and may require re-advertising and re-notification in the interest of providing a fair and adequate hearing.

SECTION 5. CONTINUANCE

a. Requests by interested party - Any interested party may request a continuance in writing prior to the hearing and/or orally at the beginning of the hearing. The party requesting such continuance shall be required to show good and sufficient cause for such continuance, and it shall be within the discretion of the Commission to grant or deny such request.

b. Motion by Commission - Any member of the Commission may at anytime move to continue the hearing of any petition. Such a motion duly seconded and adopted is required; the petitioner may be required to pay the costs associated therewith. Requests of the Pawnee City Council and officials of the City for recommendations shall not be continued except as provided in paragraph "c" below.

c. Improper notices - If proper notice under applicable laws and Section VII of these rules has not been given, the Commission shall continue the petition to allow time for proper notice to be given.

SECTION 6. APPROVAL

a. Subdivisions and final planned developments - The Commission has the authority to recommend approval of subdivisions of land planned developments under the terms of the Pawnee City Code. Such approval may be conditional or unconditional.

1. Conditional approval - A motion to approve a petition may be conditional upon a petitioner's compliance with a requirement or requirements recommended by the Commission or imposed by the Pawnee City Council. Such conditions of approval shall be specifically stated by the City Council. The City Council may impose a time limit upon the fulfillment of any such requirement. The petitioner shall be required to notify the zoning administrator of the City of Pawnee of the fulfillment of such requirement.

2. Unconditional approval - If there are no conditions imposed upon the approval of a petition, the president and secretary shall sign the permanent drawings.

3. Zoning Ordinance Amendments - If the Commission recommends favorably upon a petition for amendment to the Zoning Ordinance, the zoning administrator shall forward a report describing the Commission's action to the City Council for consideration.

SECTION 7. DISAPPROVAL

a. Subdivisions, preliminary, and final planned unit developments - If the Commission finds that a petition does not meet the criteria established by ordinances for approval, it shall deny the request.

b. Zoning Ordinance Amendments - If the Commission disapproves of a Zoning Ordinance Amendment which has been referred to it for recommendation, the Commission shall direct the zoning administrator to forward its recommendation together with a report describing the Commission's action to the City for their action.

ARTICLE VI - FILING PROCEDURES

SECTION 1. APPLICATION

Each petition to the Commission shall be on application forms prescribed by the zoning administrator and shall be accompanied by such information and exhibits as specified on such forms and/or required by applicable ordinances. Any communication purporting to be a petition not on the prescribed forms or not containing the information required shall be considered incomplete and shall not be scheduled for hearing.

SECTION 2. ELIGIBLE APPLICANTS

The owners of property included in any petition before the Commission must consent to the filing of the application. Such consent may be evidenced by the owner's signature on said application or by a signature of a person having power of attorney authorizing such signature. In the case of property which is being purchased under a land contract, the signatures of both, the contract purchasers and the contract sellers or their duly authorized agents, shall be required.

ARTICLE VII - NOTICE REQUIREMENTS

SECTION 1. CONTENTS

Any notice of public hearing required by Nebraska State Statute or the Pawnee City Code shall contain as a minimum the following information:

- a. Description of the substance of the matter to be heard.
- b. General location by address or other description and legal description of the property.
- c. Name of the person or agency initiating the matter to be heard.
- d. Time and place of the hearing.
- e. Statement that interested parties may offer an oral opinion at the hearing.
- f. Any other information which may be required by law to be contained in such notice.

SECTION 2. PUBLICATION

When the Commission is required by law to publish in a newspaper of general circulation a notice prior to any hearing of the Commission, the zoning administrator shall cause such notice to be published in accordance with the time periods established by the applicable law. Proof of such publication shall be obtained by the zoning administrator and shall be kept in the application file.

SECTION 3. SPECIAL NOTIFICATION

When there is a zoning action which requires a public hearing and an approval or disapproval of a permit by the Planning Commission, the Chairperson of the Planning Commission may require the zoning administrator, or their designee, to notify all property owners that are within a 300 foot radius of the affected property by special notification.

This special notification may be by mail or any other means deemed appropriate by the zoning administrator and shall contain such information as the Chairperson of the Planning Commission deems adequate.

ARTICLE VIII- STANDING COMMITTEES

SECTION 1. AUTHORITY

The Chairperson is hereby authorized to appoint permanent and temporary committees to facilitate the work of or advise the Commission. Such committees may be comprised of Commission members only, or they may include other interested parties. A Chairperson shall be appointed for each committee, and reports on their assignments shall be made a part of the record. The Chairperson may be a member or an ex -officio member of any committee so appointed. The zoning administrator shall also be an ex -officio member of each committee.

SECTION 2. COMMITTEE MEETINGS

The zoning administrator shall assist any and all committees established under this section in scheduling the times and places for meetings.

ARTICLE IX - COMMISSION RECORDS

SECTION 1. RESPONSIBILITY

It shall be the duty of the zoning administrator or his designee to maintain all Commission files and records, including the official minutes of all meetings.

SECTION 2. MINUTES

The zoning administrator shall prepare an accurate record of all hearings, official actions and committee meetings of the Commission and the minutes representing such record shall be made available within a reasonable time after such hearing or action to all members of the Commission. Upon approval by the Commission, copies of such minutes shall be made available to interested parties.

SECTION 3. TAPE RECORDINGS

The zoning administrator may make taped or other mechanical recordings of the Commission's proceedings. Such recording products shall remain on file in the zoning administrator's office for a period not less than one year from the date of the hearing or determination, whichever is later.

Such recordings shall not be removed from such office other than by order of a court of competent jurisdiction. Interested parties may listen to such recordings in the city office and may copy such recordings, under the supervision of the zoning administrator.

SECTION 4. COMMISSION CASE FILE

A file shall be maintained for each item placed on the agenda of the Commission. Such files shall contain, as a minimum, the application form and supporting materials and any exhibits pertinent to the decision, conditions, or safeguards or other material related to the binding effects of the Commission's action.

SECTION 5. PUBLIC RECORDS.

The records and files of the Commission shall be public and shall be made available to the public

ARTICLE X - FEES

SECTION 1. SCHEDULE OF FEES.

The Commission shall recommend to the Pawnee City Council a uniform schedule of fees to defray the administrative costs connected with processing and hearing petitions for rezoning, special uses, and planned developments, for the checking and verifying of proposed subdivision plats, and for other official acts.

SECTION 2. PAYMENT REQUIRED

In no case should the Commission take action on any petition that applicable fees have not been paid in full. No part of any fee paid pursuant to this section shall be returnable to the petitioner unless authorized by the Pawnee City Council.

SECTION 3. WAIVES

Nothing herein shall be construed to require a fee for actions initiated in the public interest by the Commission, the Pawnee City Council or officials of the City of Pawnee City.

ARTICLE XI - AMENDMENTS AND SUSPENSION

SECTION 1. AMENDMENTS.

Amendments to the Rules of Procedure may be made by the Commission at any regular or special meeting, provided, however, that the proposed amendment shall have been presented in writing at a previous regular meeting of the Commission or the requirement of this article has been waived by a majority of the Commission as provided in Section 2 of this Article.

SECTION 2. SUSPENSION OF RULES.

The suspension of any Rule of Procedure herein may be authorized by the Commission at any regular or special meeting upon the affirmative vote of five (5) members, provided, however, that no rule which is required to comply with state or local law may be so suspended.

ARTICLE XII- SEPARABILITY

If any section, clause, provision, or portion of these rules shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision, or portion of these rules.

ARTICLE XIII- CERTIFICATE OF ADOPTION

The foregoing Rules of Procedure of the City of Pawnee Planning Commission are hereby adopted by the affirmative vote of the Commission this _18th day of February 1999.

Chairperson
Ronald R, Hodges

Vice-Chairperson
Gina Grizzle

ZONING ORDINANCE OF PAWNEE CITY

ARTICLE ONE - BASIC PROVISIONS

1.1 Title

Chapter 11 of the Pawnee City Municipal Code shall be known as the Zoning Ordinance of the City of Pawnee City.

1.2 Jurisdiction

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Pawnee City and its one-mile extra-territorial jurisdiction as provided by Section 17 Revised Statutes of Nebraska, 1943.

1.3 Purpose

The purposes of the Zoning Ordinance of the City of Pawnee City are to:

- a. Serve the public health, safety, and general welfare of the city and its jurisdiction.
- b. Classify property in a manner that reflects its suitability for specific uses.
- c. Provide for sound, attractive development within the city and its jurisdiction.
- d. Encourage compatibility of adjacent land uses.
- e. Protect environmentally sensitive areas.
- f. Further the objectives of the Comprehensive Development Plan of the City of Pawnee City.

1.4 Plan Consistency with Comprehensive Development

The City of Pawnee City intends that this Zoning Ordinance and any amendments to it shall be consistent with the City's Comprehensive Development. Should this Ordinance become inconsistent with the adopted Comprehensive Development Plan because of subsequent amendments to that plan, it is the City's intent to amend this ordinance to bring it into conformance with the plan.

1.5 Conflicting Provisions

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the City of Pawnee City, or any applicable State or Federal law, the more restrictive provision shall apply.

1.6 Relief from Other Provisions

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

1.7 Severability of Provisions

If any chapter, section, subsection, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE TWO - DEFINITIONS

2.1 Purpose

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout the Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

2.2. General Construction of Language

The following general rules of construction apply to the text of the Zoning Ordinance.

a. Headings

Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, intent of any provision of the Zoning Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of this Ordinance and any illustration explaining the text, the text shall apply.

c. Shall and May

"Shall" is always mandatory. "May" is discretionary.

d. Tenses and Numbers

Words used in the present tense include the future tense. Words used in the singular include the plural and the plural the singular, unless the context clearly indicates the contrary.

e. Conjunctions

Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items or provisions apply.
2. "Or" indicates that the connected items or provisions may apply singly or in any combination.
3. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.

f. Referenced Agencies

Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the City of Pawnee City.

2.3 Definitions of Terms

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions, which are additional to those listed here. Where terms are not specifically defined their ordinarily accepted meanings or meanings implied by their context shall apply.

A

1. **Abutting:** Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.
2. **Accessory Structure:** A structure, which is incidental to and customarily associated with a specific principal use or building on the same site.
3. **Accessory Use:** A use, which is incidental to and customarily associated with a specific principal use on the same site.
4. **Addition:** Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
5. **Agent of Owner:** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
6. **Alley:** A public right of way, which is used as a secondary means of access to abutting property.
7. **Alteration:** Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
8. **Animal Units (AU)** are defined as:

| | |
|----------------------------|---------------------------------|
| 1 Steer @ 1000 lbs. = 1 AU | 0.7 Dairy Cattle = 1 AU |
| 3.3 Sows = 1 AU | 3.3 Hogs = 1 AU |
| 5 Nursery Pigs = 1 AU | 10 Sheep = 1 AU |
| 55.5 Turkeys = 1 AU | 100 Layers/Broilers = 1AU |
| 2 Calves @ 500 lbs. = 1AU | 1 mature Cow with calf = 1AU |
| 1 Lama = 1AU | 2.7 Ostriches, Rhea, Emus = 1AU |
9. **Apartment:** A room or set of rooms fitted especially with housekeeping facilities and usually leased as a dwelling.
10. **Attached:** Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.

B

1. **Base District:** A district established by this Ordinance to prescribe basic regulations governing use and site development. No more than one base district shall apply to the same portion of a site.
2. **Basement:** The part of a building that is wholly or partly below ground.
3. **Beginning of Construction:** The initial incorporation of labor and materials within the foundation of a building or structure.
4. **Block:** A usually rectangular space (as in a city) enclosed by streets and occupied by or intended for buildings.
5. **Block Face:** The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Pawnee City.
6. **Board of Adjustment:** See Article 12, Section 12.8
7. **Buffer Yard:** A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

8. **Building:** A structure having a roof and built to provide shelter, support, or enclosure for persons or property. Building does not include shipping containers, truck vans and semi-trailers.
9. **Building Coverage:** The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.
10. **Building Line:** The outer boundary of a building established by the location of its exterior walls.
11. **Business Center:** A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

C

1. **Certificate of Occupancy:** An official certificate issued by the Zoning Administrator or his/her designee, indicating conformance with the zoning regulations and other applicable ordinances of the city and authorizing legal use of the premises for which it is issued.
2. **Change of Use:** The replacement of an existing use by a new use.
3. **Cluster:** A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
4. **Creative Subdivision:** A wholly or principally residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.
5. **Collector Street:** A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
6. **Common Area:** An area held, designed, and designated for common or cooperative use within a development.
7. **Common Development:** A development under the control of a single owner or management entity planned and developed as a single unified project. Projects defined as Common Development may not be divided by a public street alley, or other public right-of-way.
8. **Compatibility:** The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
9. **Comprehensive Plan:** The duly adopted Comprehensive Development Plan of the City of Pawnee City.
10. **Conditional Use:** A use with operating and/or physical characteristics different from uses permitted by right in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Conditional uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Planning Commission.
11. **Condominium:** A real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.

12. **City:** The City of Pawnee City, Nebraska.
13. **City Council:** The City Council of the City of Pawnee City, Nebraska.
14. **County:** Pawnee County, Nebraska.
15. **Court:** An approved private right-of-way, which provides access to residential properties and meets at least three of the following conditions:
 - (a) Serves twelve or fewer housing units or platted lots.
 - (b) Does not function as a local street because of its alignment, design, or location.
 - (c) Is completely internal to a development.
 - (d) Does not exceed 600 feet in length.

D

1. **Density:** The amount of development per specific unit of a site.
2. **Drive-in Services:** Uses, which involve the sale of products or provision of services to occupants in vehicles.
3. **Detached:** Fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.
4. **Driveway:** A permanently surfaced area providing vehicular access between a street and an off-street parking or loading area.
5. **Dimensionally Alter:** A structure will be dimensionally altered if the length, width or height of the structure is substantially increased.
6. **Dwelling Unit:** See Housing Unit.

E

1. **Easement:** A privilege or right of use granted on, above, under, or across a particular tract of land by one owner to another owner, public or private agency or utility.
2. **Enclosed:** A roofed or covered space fully surrounded by walls.

F

1. **Family:** One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than 3 of whom may be unrelated. The following persons shall be considered related for the purpose of this title:
 - (a) Persons related by blood, marriage, or adoption.
 - (b) Persons residing with a family for the purpose of adoption;
 - (c) Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
 - (d) Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
 - (e) Person(s) living with a family at the direction of a court.
2. **Federal:** Pertaining to the Government of the United States of America.
3. **Floor Area Ratio:** The quotient of gross floor area divided by gross site area.
4. **Frontage:** The length of a property line of any one premise abutting and parallel to a public street, private way, or court.

G

1. **Grade:** The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.
2. **Gross Floor Area:** The total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements; elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

H

1. **Height:** The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and ridge for gable, hip, shed, or gambrel roofs. Where a building is located on a slope, height shall be measured from the average grade level adjacent to the building.
2. **Home Occupation:** An accessory occupational use conducted entirely within a dwelling unit by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site.
3. **Housing Unit (or Dwelling Unit):** A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.
4. **Household:** Those persons who dwell under the same roof and compose a family.

I

1. **Impervious Coverage:** The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

J

K

L

1. **Landscaped Area:** The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, groundcover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
 - (a) **Perimeter Landscaped Area:** Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
 - (b) **Interior Landscaped Area:** Any landscaped area within a site exclusive of required perimeter landscaping.
2. **Loading Area:** An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.
3. **Lot:** A parcel of real property with a separate and distinct number or other designation shown on a plat, record or survey, parcel map, or subdivision map recorded in the office of the Pawnee County County Clerk. When a lot is used together with one or more contiguous lots in a common development, all of the lots used, including any lots used for off-street parking shall be considered a single lot for purposes of these Zoning

Regulations. A lot shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Cluster Subdivision.

- (a) **Corner Lot:** A lot located at the intersection of two streets, private ways or courts or on two segments of a curved street, private way or court forming an angle of no more than 135 degrees.
 - (b) **Double Frontage Lot:** A lot, other than a corner lot, having frontage on two streets, private ways or courts.
 - (c) **Interior Lot:** A lot other than a corner lot.
4. **Lot Area:** The total horizontal area within the lot lines of a lot.
 5. **Lot Depth:** The average horizontal distance between the front and rear lot lines.
 6. **Lot Line:** The lines bounding a lot as herein defined.
 - (a) **Front Lot Line:** For an interior lot, the lot line separating the lot from the street, private way or court. For a corner lot, the shorter lot line abutting a street, private way or court, or the line designated as the front lot line on a subdivision plat or parcel map. For a double frontage lot, the lines separating the lot from the streets, private ways or courts.
 - (b) **Rear Lot Line:** The lot line, which is opposite and most distant from the front lot line.
 - (c) **Side Lot Line:** Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
 7. **Lot Width:** The horizontal distance between the side lot lines, measured at the two points of intersection between the front yard setback line and the side lot lines.

M

1. **Manufactured Home:** A factory-built structure which is designed for single-family residential use which is not constructed or equipped with a permanent hitch or other device allowing it to be moved to a location other than one permanent site, which does not have wheels or axles permanently attached to its frame, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development, and meeting the following additional requirements:
 - (a) Installation on a permanent foundation as required for site-built residential structures in the City of Pawnee City.
 - (b) A minimum floor area of 900 square feet.
 - (c) An exterior width of at least eighteen feet.
 - (d) A roof pitches with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
 - (e) Exterior material of a color, material, and scale comparable with those existing in residential, site-built single-family residential construction.
 - (f) Use of a roofing material, which is comparable with those existing in residential, site-built single-family residential construction in the City of Pawnee city.
 - (g) Removal of wheels, axles, transporting lights, and removable towing apparatus.

Manufactured Homes pursuant to this definition are not distinguished from other forms of permanent single-family residential construction.

2. **Mobile Home Planned Park District:** A unified development under single ownership, providing spaces for rent or lease for the placement of mobile home units. Mobile Home Parks usually include common areas and facilities for management, recreation, laundry, utility services, storage, and other services.
3. **Manufactured Home Seal:** A device or insignia issued by the Nebraska Department of Health Human Services and to be displayed on the exterior of a manufactured home/structure or recreational vehicle to evidence compliance with departmental standards. The federal manufactured home label shall be recognized as a seal.
4. **Mixed Use Building:** A building or structure that incorporates two or more use types within it.
5. **Mixed Use Development:** A single development that incorporates two or more use types within its site boundaries.
6. **Mobile Homes:** A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health Human Services or conformance to the manufactured home procedural and enforcement regulations, as adopted by the U.S. Department of Housing and Urban Development.
7. **Modular Housing Unit:** Any structure whose construction consists entirely or in major portions of pre-assembled units not fabricated on the final site of the unit. Such units are moveable or portable until placed on a permanent foundation and connected to utilities. Modular housing units pursuant to this definition are not included in the definition of Manufactured Home and, for the purpose of this Ordinance, are not distinguished from other forms of permanent construction.
8. **Modular Home Seal:** A device or insignia issued by the Nebraska State Department of Health and Human Services to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards.

N

1. **Nonconforming Development:** A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time of construction.
1. **Nonconforming Lot:** A lot, which was lawful prior to the adoption, revision or amendment of this Zoning Ordinance but that, fails by reason of such adoption, revision or amendment to conform to the current minimum requirements for the zoning district in which it is located.
2. **Nonconforming Structure:** A structure, which was lawful prior to the adoption, revision or amendment of this Zoning Ordinance but that, fails by reason of such adoption,

revision or amendment to conform to the current minimum requirements for the zoning district in which it is located.

3. **Nonconforming Use:** A lawful use of land, other than a sign, which does not comply with the use regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time the use was established.
4. **Non- domestic Animal:** Any animal other than a pet animal or non-pet animal, or any non-pet animal, which has reverted to a wild state.
5. **Non-pet Animal:** Any horse, bovine, swine, sheep, goat, mule, donkey or burro, chicken, turkey, duck, goose, guinea, pea fowl, swan, or other animal or fowl commonly kept for commercial or agricultural purposes and which is a member of a species or breed not ordinarily found in the wild.
6. **Nuisance:** An unreasonable and continuous invasion of the use and enjoyment of a property right that a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

O

1. **Open Space:** Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.
2. **Outdoor Storage:** The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding thirty days. The definition of materials, parts or products shall include, but not be limited to shipping containers, truck vans, semi-trailers, wrecked, junked or partially dismantled vehicles.
3. **Overlay District:** A district established by this Ordinance to prescribe special regulations to be applied to a site only in combination with a base district.
4. **Owner:** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

P

1. **Parcel:** A distinct, contiguous piece of land that may or may not be a subdivided legally described lot.
2. **Parking Facility:** An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures.
3. **Parking Spaces:** An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with "parking stall". Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.
4. **Permitted Use:** A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.
5. **Pet Animal:** Any domestic dog, domestic cat, domestic rabbit, domestic ferret, domestic rodent, bird except those defined as non-pet animals, non-lethal aquarium fish, non-lethal invertebrates, amphibians, turtles non-venomous lizards that will not grow to more than five feet in length at maturity, non-venomous snakes that will not grow to more than two

feet in length at maturity or such other animals as may be specified and for which a permit shall be issued by the City of Pawnee City after inspection and approval by the Nebraska Humane Society. Any animal forbidden to be sold, owned or possessed by federal or state law is not a pet animal.

6. **Planned Unit Development:** A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
7. **Premises:** A tract of land consisting of one or more lots or sites that are contiguous and under common ownership or control.
8. **Private Garage:** A building for the storage of motor vehicles where no repair or service facilities are maintained and where no motor vehicles are kept for rental or sale.
9. **Property Line:** The line separating parcels.

R

1. **Recreational Vehicle:** A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers; and van conversions.
2. **Regulation:** A specific requirement set forth by this Zoning Ordinance which must be followed.
3. **Remote Parking:** A supply of off-street parking at a location not on the site of a given development.

S

1. **Screening:** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms or other features as may be permitted by landscape provisions of this ordinance.
2. **Setback:** A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and setting forth the nearest that a building face may come to that lot line.
3. **Sign:** A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
4. **Site:** The parcel of land to be developed or built upon. A site may encompass a single lot, a portion of a lot, or a group of lots developed as a common development. A site must be in one base district, and cannot be separated by a public street or alley.
5. **Site Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.
6. **Special Permit Use:** A use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Planning Commission.

7. **Spot Zoning:** Rezoning of a single lot or small parcel of property held by a single owner and the rezoning will permit land uses not available to the adjacent property.
8. **State:** The State of Nebraska.
9. **Story:** The space in a building or structure between two adjacent floor levels or between a floor and the roof. A unit of measure equal to the height of the story of a building or structure.
10. **Street:** A right of way, dedicated to public use, which affords a primary means of access to the abutting property.
11. **Street, Local:** A street that is used primarily for access to the abutting properties.
12. **Structure:** A walled and roofed building that is principally above ground. Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.
13. **Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

T

1. **Townhouse:** A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside and neither above nor below any other dwelling unit.
2. **Townhouse Structure:** A building formed by two or more contiguous townhouses with common or abutting walls.
3. **Truck Gardening:** The raising of garden produce to sell. Garden produce includes but is not limited to: herbs, plants, fruits, flowers, trees and vegetables.

U

1. **Use:** The conduct of an activity or the performance of a function or operation, on a site or in a building or facility.
2. **Utilities:** Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

V

1. **Value:** The estimated cost to replace a structure in kind based on current replacement costs.

2. **Variance:** The limited relaxation of one or more of the zoning regulations applicable to a particular piece of property. The variance may be granted to avoid creating an unnecessary or undue hardship for the reasonable use of such property.

W

X

Y

1. **Yard:** A required open space on a lot adjoining a lot line, containing only landscaping or other uses as provided by this Zoning Ordinance.
 - (a) **Front Yard:** A required yard extending the full width of a lot, between the front lot line and the front setback line.
 - (b) **Rear Yard:** A required yard extending the full width of a lot, between the rear lot line and the rear setback line.
 - (c) **Interior Side Yard:** A required yard extending the depth of a lot from the front to rear lot lines, between the interior side lot line and the side setback line.
 - (d) **Street Side Yard:** On a corner lot, a required yard extending the depth of a lot from the front to rear lot lines, between the street side lot line and the street side setback line.

Z

1. **Zone Lot:** A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district; and can provide such yards and other open spaces that are require by the district regulations.
2. **Zoning Administrator:** The designee of the City Council, responsible for supervision and operation of the building and land use regulations of the City of Pawnee City.
3. **Zoning District:** A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Ordinance.

ARTICLE THREE - USE TYPES

3.1 Purpose

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

3.2 Determinations

a. Classification of Uses

In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Pawnee City shall have the authority to determine the appropriate use type, or request that the determination be made by the Planning Commission. The determination of the use type may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and the Board of Adjustment shall consider the operational and physical characteristics of the use in question and shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

b. Records

The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

3.3 Residential Use Types

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

a. Single-Family Residential

The use of a site for one dwelling unit, occupied by one family and excluding a mobile home unit.

1. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on one or more lots, with no physical or structural connection to any other dwelling unit. Modular housing units are considered as single-family residential for the purposes of this Ordinance.
2. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on one lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another lot.

b. Duplex Residential

The use of a site for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.

c. Two-family Residential

The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.

d. Townhouse Residential

The use of a site for three or more attached dwelling units each occupied by one family and separated by vertical sidewall extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

e. Multiple-Family Residential

The use of a site for three or more dwelling units within one or more buildings.

f. Group Residential

The use of a site for a residence by more than three unrelated persons not defined as a family, on a weekly or longer basis.

g. Manufactured Home Residential

Use of a site for one or more manufactured homes.

h. Mobile Home Residential

Use of a site for one or more mobile home units.

i. Apartment Residential.

Use of a space in an existing building for an apartment.

3.4 Office Use Types

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

a. General Offices

Use of a site for business, professional, medical or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; medical offices; banks or financial offices; or professional offices.

3.5 Commercial Use Types

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

a. Agricultural Sales and Service

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

b. Automotive and Equipment Services

Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. **Automotive Rental and Sales:** Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.
2. **Auto Services:** Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.
3. **Vehicle Body Repair:** Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
4. **Equipment Rental and Sales:** Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
5. **Equipment Repair Services:** Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.
6. **Vehicle Storage:** Long-term or short-term storage of operating or non-operating vehicles. Typical uses include storage of private parking towed away vehicle or impound yards but exclude dismantling or salvage.

c. Bed & Breakfasts

A lodging service that provides overnight or short-term accommodations to guest or visitors, usually including provisions of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner or residential manager of the structure, include no more than six units and accommodate each guest or visitor for no more than seven (7) consecutive days in any one month.

d. Business Support Services

Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services and convenience printing and copying.

e. Business or Trade Schools

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

f. Campground

A facility providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than seven (7) consecutive days in any one month.

g. Cocktail Lounge

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

h. Commercial Recreation

Private businesses or organizations, which may or may not be commercial in nature, primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, or private skating facilities.

i. Communications Services

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

j. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, or materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

k. Consumer Services

Establishments which provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, television or electronic equipment repair shops or musical instrument repair shops.

l. Convenience Storage

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

m. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption, including the accessory sale of fuel from duly licensed pumps without additional auto services. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

n. Funeral Services

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

o. Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involves the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City of Pawnee City or the State of Nebraska.

p. General Retail Services

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

q. Kennels

Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities, pet motels, and rabbit raising facility or dog-training centers.

r. Laundry Services

Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

s. Liquor Sales

Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

t. Lodging

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels and motels.

u. Personal Services

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry cleaning stations serving individuals and households, driving schools, health or physical fitness studios, massage therapy shops, reducing salons, dance studios, handicraft and hobby instruction.

v. Pet Services

Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

w. Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

x. Restaurants

A use engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 per cent of the establishments' gross income.

y. Stables

Boarding, breeding or raising of horses, llamas, or other hooped animals which are not owned by the occupants of the premises; or for the purpose of riding animals included in this definition by members of the public other than the occupants of the premises or their non-paying guests. Typical uses include boarding stables or public stables.

z. Surplus Sales

Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

aa. Veterinary Services

Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

3.6 Civic Use Types

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.

a. Administration

Governmental offices providing administrative, clerical or public contacts services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

b. Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

c. Clubs

Uses providing meeting, recreational, or social facilities for a private, non-profit or non-commercial association, primarily for use by members and guests.

d. College and University Facilities

An educational institution of higher learning, which offers a course of study designed to culminate in the issuance of a degree, certified by a generally recognized accrediting organization.

e. Convalescent Services

A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

f. Cultural Services

A library, museum, or similar registered non-profit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

g. Day Care Services (Limited)

A facility or use of a building or portion thereof, licensed by the State, providing day care of eight (8) or fewer individuals. This term includes nursery schools, preschools; day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

h. Licensed Day Care Services (General)

A facility or use of a dwelling unit or portion thereof, licensed by the State, providing day care of more than eight (8) individuals. This term includes nursery schools, preschools; day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities and non-commercial day shelters.

i. Group Care Facility

A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for the care and short or long-term, continuous multi-day occupancy of more than three unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
3. Rehabilitation from the effects of drug or alcohol abuse.
4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work release, and probationary programs.

j. Group Home

A facility licensed by the State of Nebraska in which at least four but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation.

k. Guidance Services

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

l. HealthCare

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services training, administration and services to outpatients, employees, or visitors.

m. Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees or visitors.

n. Maintenance Facilities

A public facility that is supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

o. Park and Recreation Services

Publicly-owned and operated parks, playgrounds, recreation facilities, and open spaces.

p. Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the

United States Postal Service.

q. Primary Educational Facilities

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Nebraska.

r. Public Assembly

Facilities owned and operated by a public agency or a charitable non-profit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

s. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto but excluding private primary or private secondary educational facilities, community recreational facilities, day-care facilities, and incidental parking facilities. A property tax exemption obtained pursuant to Chapter 77 of the Statutes of the State of Nebraska shall constitute *prima facie* evidence of religious assembly use.

t. Safety Services

Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

u. Secondary Educational Facilities

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Nebraska.

v. Utility Facility

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.

3.7 Off-Street Parking

Parking use types include parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility, other than an accessory to a principal use.

3.8 Industrial Use Types

Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and the storage and distribution of products.

a. Custom manufacturing.

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or

2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 kW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

b. Light Industry

Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

c. General Industry

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials *without* noticeable noise, odor, vibration, or air pollution effects across property lines.

d. Heavy Industry

Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, *with* noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials; except for those uses defined as Agricultural Uses.

e. Recycling Collection

Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

f. Recycling Processing

Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

g. Resource Extraction

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

h. Salvage Services

Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials, which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junkyards, or paper salvage yards.

i. Warehousing

Uses including storage, distribution, and handling of goods and materials within enclosed structures or open-air storage. Typical uses include monument yards, grain elevators, wholesale distributors, storage warehouses, van and storage companies and open storage.

j. Construction Yards

Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

3.9 Transportation Use Types

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

a. Aviation Facilities

Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

b. Railroad Facilities

Railroad yards, equipment servicing facilities, and terminal facilities.

c. Truck Terminal

A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck.

3.10 Agricultural Use Types

Agricultural use types include the on-site production of plant and animal products by agricultural methods.

a. Horticulture

The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

b. Crop Production

The raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis, including truck gardening. This definition may include accessory retail sales under certain conditions.

c. Farm

An area containing at least ten (10) acres or more which is used for growing of the usual farm products such as vegetables, fruit and grain, and storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such

accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a commercial feed lot hereafter defined, any person operating within the following categories is conducting a farming operation and is not considered as operating a commercial feed lot unless he exceeds:

1 animal unit (as defined in Article 2) per acre for a parcel of land less than forty acres (40A); 2 animal units per acre for that portion of a parcel of land over forty acres but less than eighty acres; but not more than 3 animal units per acre for parcels of land over eighty acres.

d. Feed Lot Commercial/Confinement Operation.

The feeding, farrowing or raising of bison, cattle, lama, swine, sheep, ostriches, poultry or other livestock in a confined area where grazing is not possible, where confinement is for more than seven (7) months in any one calendar year, and where the number of animals so maintained exceeds 500 animal units as defined in Article 2. The area of the confined feeding operation shall include the pens, corrals, and sheds, buildings, feed storage areas, waste disposal ponds, waste disposal areas and related facilities. Such facilities shall be constructed and operated in conformance with applicable state and federal regulations. Further, such operations shall provide an operation and maintenance plan including a site plan and other such information as required by the city.

f. Livestock Sales

The use of a site for the receipt, temporary feeding, accommodation, and sale of livestock and poultry. Typical uses include stockyards and livestock sale pavilions.

3.11 Miscellaneous Use Types

a. Alternative Energy Systems

A system that utilizes one, or a combination of Biomass, Geothermal, Methane, Hydropower, Solar and/ or Wind sources in conformation with “Net Metering” per Nebraska State Statutes (70-2001 to 70-2005 August 30, 2009 as Amended).

Net Metering: A utility policy for consumers in which a property owner utilizes one or a combination of alternative energy sources including wind, solar geothermal, biomass or methane to generate a portion or all of their electrical needs for their home or business. If the property owner is able to generate more power than needed for the home or business, the local utility company is required by Nebraska Law to purchase the “extra” or excess electrical power from the property owner.

b. Broadcasting Tower

A structure for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district.

c. Construction Batch Plant

A temporary demountable facility used for the manufacturing of concrete, asphalt, or other paving materials intended for specific construction projects.

d. Wind Energy Conservation System (WECS)

Any device, which converts wind energy to a form of usable energy, including wind charges,

windmills, or winds turbines.

e. Landfill (Non-putrescible Solid Waste Disposal)

The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, and brick, lumber, roofing materials and ceramic tile.

f. Landfill (Putrescible Solid Waste Disposal)

The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include putrescible wastes such as vegetation and tree parts

ARTICLE FOUR - ZONING DISTRICT REGULATIONS

4.1 Purpose

Article Four presents the Zoning District Regulations. Zoning Districts are established in the Zoning Ordinance to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

4.2 Establishment of Districts

The following base districts and overlay districts are hereby established.

| <u>Map Code</u> | <u>District Name</u> |
|-----------------|---|
| AG | Agricultural District |
| RR | Rural Residential District |
| R-1 | Single-Family Residential District |
| R-2 | Urban Family Residential District |
| R-3 | Multiple-Family Residential |
| MP | Mobile Home Planned Park |
| TC | Town Center District |
| GC | General Commercial District |
| IN | Industrial District |
| ----- | |
| | FP/FW Flood Plain / Floodway Overlay |
| PUD | Planned Unit Development Overlay |
| HD | Historic District |
| ED | Environmental Resources District |

4.3 Application of Districts

A base district designation shall apply to each lot or site within the city and its planning jurisdiction. A site must be in one base district.

The Flood Plain/Floodway, Planned Unit Development, Historic, and Environmental Resources Overlay Districts may be applied to any lot or site or any portion thereof, in addition to a base district designation.

4.4 Hierarchy

References in the Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 4-2, and shall represent a progression from the AG Agricultural District as the least intensive to the HI Heavy Industrial District as the most intensive. The Overlay Districts shall not be included in this reference.

4.5 Development Regulations

The Development Regulations for each zoning district are set forth in Tables 4-1,4-2, and 4-3. Table 4-1 explains the purposes of each zoning district. Table 4-2 presents the uses permitted in each zoning district. Table 4-3 presents the Site Development Regulations for each zoning district

Supplemental Regulations may affect specific land uses or development regulations in each zoning district the applicable Supplemental Regulations are noted in Table 4-2.

4.6 Zoning Map

a. Adoption of Zoning Map

Boundaries of zoning districts established by this Zoning Ordinance shall be shown on the Zoning Map maintained by the City Clerk. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with this Ordinance.

b. Changes to the Zoning Map

The Zoning Map may be changed from time to time by ordinance, following the procedure set forth by Article Twelve. Such changes shall be reflected on the Zoning Map. The City Clerk shall keep a complete record of all changes to the Zoning Map.

4.7 Interpretation of District Boundaries

The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

- a. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.
- b. Where district boundaries are indicated, as within street or alley, railroad, or other identifiable rights-of-way, the centerline of such rights-of-way shall be considered the district boundary.
- c. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.
- d. The City Council shall determine any other uncertainty regarding district boundaries not covered in this section.

4.8 Vacation of Streets and Alleys

Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

Table 4-1: Purposes of Zoning Districts

| Title | Purpose |
|--|--|
| AG: Agricultural District | The AG District provides for and preserves the agricultural and rural use of land, while accommodating very low-density residential development generally associated with agricultural uses. |
| RR: Rural Residential | This district provides for very low-density residential environments, accommodating developments that merge urban living with rural life. It permits limited agricultural uses, which are most unlikely to be a nuisance, within these settings. The district regulations assure that density is consistent with the carrying capacity of infrastructure. |
| R-1: Single-Family Residential | This district is intended to provide for low-density residential neighborhoods, characterized by single-family dwellings on large lots with supporting community facilities. Its regulations are intended to provide good housing environments and to assure that density is consistent with the carrying capacity of infrastructure. |
| R-2: Urban Family Residential | This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on small to moderately-sized lots with supporting community facilities. It provides special regulations to encourage innovative forms of housing development. It adapts to both established and developing neighborhoods, as well as transitional areas between single-family and multi-family neighborhoods. Its regulations are intended to develop good residential environments and to assure that density is consistent with the carrying capacity of infrastructure. |
| R-3: Multiple Family Residential | This district is intended to provide locations for a variety of housing types, including multiple-family housing, with supporting and appropriate community facilities. The district integrates some appropriate non-residential uses by special use permit in order to develop fully urban, mixed-use neighborhoods |
| MP: Mobile Home Planned Park District | This district is intended to provide for the location of mobile homes in appropriately planned developments. Regulations are designed to provide for planned development which provide safe accommodations for mobile homes, while minimizing potential impact on neighboring residential properties.. |

Table 4-1: Purposes of Zoning Districts (con't)

Title Purpose

| | |
|--------------------------------|---|
| TC: Town Center | This district is intended to provide appropriate development regulations for Downtown Pawnee City. Mixed uses are encouraged within the TC District, without allowing activities that would have a negative effect on the town center. The grouping of uses is designed to strengthen Downtown's role as a center for trade, service, and civic life. |
| GC: General Commercial | This district provides for a variety of commercial, office, and service uses in Pawnee City's commercial areas outside of the town center. Uses and developments in the GC District may develop substantial traffic, creating potential land use conflict with adjacent residential neighborhoods. This district is most appropriate along arterials or in areas that can be well buffered from residential districts |
| IN: Industrial District | This district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility |

Table 4-2 Uses Permitted in Each Zoning District.

1. P = Uses permitted by Right. S = Uses permitted by Special Permit

| Use Types | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC | IN | Supplementary Regulations |
|--|----|----|-----|-----|-----|----|----|----|----|--|
| Agricultural Uses | | | | | | | | | | 6.8(e) |
| Horticulture | P | P | | | | | | | | 6-2(a) |
| Crop Production | P | P | | | | | | | | 6-2(a) |
| Farm | P | | | | | | | | | |
| Feed lot Commercial/Confine ment operation | S | | | | | | | | | 6.2(b) |
| Livestock Sales | S | | | | | | | | | |
| | | | | | | | | | | |
| Residential Uses | | | | | | | | | | 6.8(b) |
| Single Family Detached | P | P | P | P | P | P | | S | | 6-3(a) |
| Single Family Attached | | | S | S | P | P | | | | 6-3(b) |
| Duplex | | | | P | P | | | | | |
| Two Family | | | S | S | P | | | | | 6-3(d) |
| Townhouse | | | | S | P | | P | | | 6-3(c) |
| Multiple Family | | | | | P | | P | S | | 6-3(e) |
| Group Residential | | | | | P | | | S | | 6-3(e) |
| Mobile Home Residential | | | | | | P | | | | 6-3(f) |
| Manufactured Home Residential | P | P | P | P | P | P | | S | | 6-3(f) |
| Apartment Residential | S | S | S | S | S | | P | | | |
| Manufactured Home | P | P | P | P | P | P | | S | | 6.3(f) same as single family detached |
| Modular Home Unit | P | P | P | P | P | P | | S | | Same as single family detached |
| Mobile Home | | | | | | P | | | | 6.3(f) |

2. P = Uses permitted by Right. S = Uses permitted by Special Permit

| Use Types | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC | IN | Supplementary Regulations |
|-----------------------------|----|----|-----|-----|-----|----|----|----|----|---------------------------|
| Civic Uses | | | | | | | | | | 6.8(c) |
| Administration | | S | | | | | P | P | P | |
| Clubs | | | | | | | S | P | S | 6.4(a) |
| Cemetery | S | S | | | | | | | | |
| College / University | | | | | P | | | S | | |
| Convalescent Services | | | | | | | | P | | |
| Cultural Services | P | | | | | | P | P | | |
| Day Care (Limited) | S | P | P | P | P | P | P | P | S | 6-4(b) |
| Day Care Licensed (General) | S | S | S | S | P | S | P | P | S | 6-4(b) |
| Group Care Facility | | | | | | | | | | 6-4(c) |
| Group Home | | | | | S | | | S | | 6-4(c) |
| Guidance Services | | | | | S | | | P | | 6-8(c) |
| Health Care | S | | | | P | | P | P | | 6-8(c) |
| Hospital | P | P | P | P | P | P | P | P | P | |
| Maintenance Facilities | S | S | | | | | | P | P | |
| Park and Recreation | P | P | P | P | P | P | P | P | P | |
| Postal Facilities | | | | | S | | P | P | P | |
| Primary Education | | P | P | P | P | | | S | | |
| Public Assembly | P | P | | | | | P | P | | |
| Religious Assembly | P | P | P | P | P | P | P | P | | |
| Safety Services | P | P | P | P | P | P | P | P | P | |
| Secondary Education | | P | P | P | P | | | S | | |
| Utilities | P | P | P | P | P | P | P | P | P | |

3. P = Uses permitted by Right. S = Uses permitted by Special Permit

| Use Types | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC | IN | Supplementary Regulations |
|------------------------------|----|----|-----|-----|-----|----|----|----|----|---------------------------|
| Office Uses | | | | | | | | | | |
| General Offices | | | | | S | | P | P | P | |
| Commercial Uses | | | | | | | | | | |
| Agricultural Sales/Service | S | S | | | | | | S | S | |
| Automotive Rental/Sales | | | | | | | S | P | | 6-5(c) |
| Auto Services | | | | | | | S | P | P | 6-5(a), 6-5(b) |
| Vehicle Body Repair | | | | | | | | S | P | 6-5(a) |
| Equipment Rental / Sales | | | | | | | | S | P | 6-5(c) |
| Equipment Repair | | | | | | | | P | P | 6-5(a) |
| Vehicle Storage | | | | | | | | | P | |
| Bed and Breakfast | | | S | S | P | | S | P | | 6-5(d) |
| Business Support Services | | | | | | | P | P | S | |
| Business / Trade Schools | | | | | | | S | P | P | |
| Campground | P | S | | | | | | S | | 6-5(e) |
| Cocktail Lounge | | | | | | | P | P | | |
| Commercial Recreation | S | | | | | | P | P | P | |
| Communication Services | | | | | | | P | P | P | |
| Construction Sales & Service | | | | | | | S | P | P | |
| Consumer Services | | | | | | | P | P | P | |
| Convenience Store | S | | | | | | | S | S | |
| Food Sales | | | | | | | P | P | | |
| Funeral Services | | | | | | | P | P | | |

4. P = Uses permitted by Right. S = Uses permitted by Special Permit

| Use Types | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC | IN | Supplementary Regulations |
|--------------------------------|----|----|-----|-----|-----|----|----|----|----|---------------------------|
| Commercial Uses (Con't) | | | | | | | | | | |
| Gaming Facilities | | | | | | | | S | | |
| General Retail Services | | | | | | | P | P | P | |
| Kennels | P | S | | | | | | S | S | |
| Laundry Services | | | | | | | S | P | P | |
| Liquor Sales | | | | | | | P | P | | |
| Lodging | | | | | | | P | P | | |
| Personal Services | | | | | | | P | P | P | |
| Pet Services | | | | | | | P | P | | |
| Research Services | S | | | | | | | P | P | |
| Restaurants | | | | | | | P | P | S | |
| Stables | P | S | | | | | | | | |
| Surplus Sales | | | | | | | P | P | P | |
| Veterinary Services | S | S | | | | | | P | P | |
| Gaming Facility | | | | | | | | P | S | |
| Parking Uses | | | | | | | | | | |
| Off Street Parking | | | S | S | S | | P | P | P | Article 9 |

5. P = Uses permitted by Right. S = Uses permitted by Special Permit

| Use Types | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC | IN | Supplementary Regulations |
|--------------------------------------|----|----|-----|-----|-----|----|----|----|----|---------------------------|
| Industrial Uses | | | | | | | | | | See note on page 4-4 |
| Custom Manufacturing | | | | | | | P | P | P | |
| Light Industry | | | | | | | S | S | P | |
| General Industry | | | | | | | | | P | |
| Heavy Industry | | | | | | | | | P | |
| Resource Extraction | S | | | | | | | | S | 6.6(a) |
| Salvage Services | | | | | | | | | S | 6.6(b) |
| Warehousing | | | | | | | | | P | |
| Construction Yards | | | | | | | | | P | |
| Recycling Collection | | | | | | | | S | P | |
| Recycling Processing | | | | | | | | | P | |
| Transportation Uses | | | | | | | | | | |
| Aviation Facilities | P | | | | | | | | S | |
| Railroad Facilities | | | | | | | | | | |
| Truck Terminal | | | | | | | | | P | |
| Miscellaneous Uses | | | | | | | | | | |
| Broadcasting Tower | S | | | | | | | | S | |
| Construction Batch Plant | S | | | | | | | | P | |
| CWECS | S | S | | | | | | S | S | 6.12 (b) |
| Landfill Nonputrescible | | | | | | | | | | 6.7(a) |
| Landfill (Putrescible) | S | | | | | | | | | 6.7(a) |
| Alternative energy Production device | S | S | S | S | S | S | S | S | S | 3.11 (a); 6.12 (a) |

Table 4-3: Summary of Site Development Regulations

| Regulator | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC* | IN* |
|----------------------------------|-------------|-----------|----------------------|---------------------|--------------------------|-----------|-------------|------------|------------|
| Minimum Lot Area (square feet) | 10 acres | 1 acre | 9,000 | 7,500 | 5,000 | 2 acres | None | 5,000 | 5,000 |
| Minimum Lot Width (feet) | 300 | 100 | 75 | 50(2) | 50 | 100 | None | 50 | 50 |
| Site Area per Unit (square feet) | 10 Acres | 1 acre | 9,000 | Note 5 | 2,000 Note 3 | 4,000 | 500 | 2,000 | NA |
| Minimum Yards (feet) | | | | | | | | | |
| Front yard depth (Address) | 50 | 50 | 25 | 20 | 20 | 35 | 0 | 10 | 15 |
| Street Side Yard depth | 25 | 25 | 20 | 15 | 15 | 35 | 0 | 10 | 10 |
| Interior Side Yard depth | 25 | 25 | 10 Note 1 | 5 Note 1 | 5-30 Note 1,4 | 35 | 0 | 0 | 0 |
| Rear Yard | 35 | 35 | 20 | 20 | 20 | 35 | 0 | 10 | 10 |
| Maximum Height (feet) | 100 | 36 | 36 | 36 | 72 | 36 | NO limit | 60 | 72 |
| Maximum Building Coverage | NA | NA | 40% | 50% | 70% | NA | 100% | 70% | 70% |
| Maximum Impervious Coverage | NA | NA | 50% | 60% | 80% | 50% | 100% | 90% | 90% |
| Floor area Ratio | NA | NA | NA | NA | 1.00 | NA | 5.0 | 1.0 | 1.0 |
| | | | | | | | | | |

Note 1:

See section 6.3 for supplemental regulations governing single-family attached and townhouse residential use types.

Note 2:

See Section 6.3 for supplemental regulations regarding modifications of lot width for townhouse residential use type.

Note 3:

Density of multi-family residential may exceed this maximum, subject to approval of a Special Use Permit by the City Council, with the recommendation of the Planning Commission.

Note 4:

Interior side yard is equal to five feet for each story of height.

Note 5:

Site area per unit is 7,500 square feet for single-family detached and attached residential; and 5,000 square feet for other permitted residential use types.

- Uses in the GC and IN Districts are subject to landscape and screening provisions contained in Article 8.

ARTICLE FIVE: OVERLAY DISTRICTS

5.1 General Purpose

Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City of Pawnee City.

The Overlay Districts are designed to achieve the following objectives:

- a. To recognize special conditions in specific parts of the City which require specific regulations.

- b. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

5.2 FPI / FW FLOODPLAIN / FLOODWAY OVERLAY DISTRICT

5.2.1 Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in Section 5-21 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses, which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

2. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction.

3. Protect individuals from buying lands, which are unsuitable for intended purposes because of flood hazard.

4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood prone community.

5.2.2 Floodplain and Floodway Overlay Districts: Findings of Fact

a. Flood Losses Resulting from Periodic Inundation

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

1. General Causes of These Flood Losses

These flood losses are caused by (a) the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (b) the occupancy of flood areas by

uses vulnerable to floods or hazardous to other which are inadequately elevated or otherwise protected from flood damages.

2. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards, which consists of a series of interrelated steps.

(a). Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one (1%) percent chance of occurrence in any one year, as delineated in the official flood plain survey, and illustrative materials dated May, 1977, as amended.

(b) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the base flood.

(c) Computation of the floodway required conveying this flood without increasing flood heights more than 1 foot at any point.

(d) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.

(e) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

b. Land to Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Pawnee City identified on the Flood Insurance Rate map (FIRM) as numbered and unnumbered A zone and/or within the Overlay Districts FP and FW established in this ordinance. In all areas covered by this ordinance no development shall be permitted except upon a permit to develop granted by the Governing Body or its duly designated representative under such safeguards and restrictions as they may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community as contained in the City Code.

c. Enforcement Officer

The Zoning Administrator of the City of Pawnee City is hereby designated as the City Council's duly designated Enforcement Officer under this ordinance.

d. Rules for Interpretation of District Boundaries

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement

Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

e. Compliance

No development located within known flood hazard areas of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

f. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

g. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statute.

h. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Pawnee City or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

i. Severability

If a court of competent jurisdiction adjudges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

j. Application for Appeal

Where the Zoning Administrator denies a request for a permit to develop or a variance, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request by appropriate resolution adopted within 10 days after the date of such application to the Board of Adjustment.

5.2.3 Floodplain and Floodway Permits and Administration

a. Permit Required

No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 5.2.3(c) hereof.

b. Administration

1. The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
2. Duties of the Zoning Administrator shall include, but not be limited to:
 - (a) Review of all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
 - (b) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local Governmental agencies from which prior approval is required.
 - (c) Notify adjacent communities and the Nebraska Natural Resources Commission Flood Plan Management Section prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.
 - (d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - (e) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - (f) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
 - (g) When flood proofing is utilized for a particular structure, the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

c. Application for Permit

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

1. Identify and describe the work to be covered by the permit.

2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
5. Give such other information as reasonably may be required by the Zoning Administrator.

5.2.4 Establishment of Zoning Districts

The mapped flood plain areas within the jurisdiction of this ordinance are hereby divided into the two following districts: A Floodway Overlay District (FW) and a Floodplain Overlay District (FP) as identified in the official Flood Plain Study. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

5.2.5 Standards for Floodway Overlay District and The Floodplain Overlay District

- a. No permit for development shall be granted for new construction, substantial improvement or other improvements including the placement of manufactured homes within the identified flood plain unless the conditions of this section are satisfied.
- b. All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100-year flood, however, the water surface elevation was not provided. The unnumbered Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study Data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction.
- c. New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other development shall require:
 1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.
 2. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems be located so as to avoid impairment or contamination.

3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. All utility and sanitary facilities are elevated, or flood proofed one foot above the regulatory flood elevation.

5. That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1') foot on the average cross-section of the reach in which the development or landfill is located as shown in the official flood plain study incorporated by reference herein.

6. Storage of Materials and Equipment

(a) The storage of processing of materials that are in time of flooding buoyancy, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if not subject to damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

7. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, will be required to assure that:

(a) All such proposals are consistent with the need to minimize flood damage.

(b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.

(c) Adequate drainage is provided so as to reduce exposure to flood hazards.

(d) Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, include within such proposals the regulatory flood elevation.

5.2.6 Floodplain Overlay District: Regulations

a. Permitted Uses

Any use permitted in the underlying base district shall be permitted in the Floodplain Overlay District. No use shall be permitted in the district unless the standards of Section 5-25 are met.

b. Standards for the Floodplain Overlay District

1. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement elevated one foot above the base flood elevation.

2. Any new construction or substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be flood proofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5.2.3-c.

3. All new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize hydro static flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by the registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

5. Manufactured Homes

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

(i) Over -the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

(ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.

(iii) All components of the anchoring system are capable of carrying a force of 4800 pounds.

(iv) Any additions to manufactured homes are similarly anchored.

(b) Require that all manufactured homes to be placed within Zones AL-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Uniform Building Code.

c. AO Zones: Special Regulations

Located within the areas of special flood hazard are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM.
2. All new construction and substantial improvements of nonresidential structures shall:
 - a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM; or
 - b) Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the official as set forth in Section 5.2.2-2-c.
 - c) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

5.2.7 Floodway Overlay Districts

a. Permitted Uses

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided that they do not require structures fill or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of Sections 5-23 and 5-24.

1. Agricultural uses such as general farming, pasture, nurseries, forestry.
2. Residential uses such as lawns, garden, parking and play areas.
3. Areas such as loading areas, parking, airport landing strips.

4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes is prohibited with the identified floodway (FW) area.

5. In zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or Local sources in meeting the standards of this section.

5.2.8 Request for Variances from District Requirements

a The Board of Adjustment as established by the City of Pawnee City shall hear and decide appeal and requests for variances from the requirements of this ordinance.

b. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.

c. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska Statutes.

d. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

1. The danger those materials may be swept onto other lands to the injury of others.
2. The danger of life and property due to flooding or erosion damage.
3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- 4 The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.
9. The safety of access to the property in time of flood for ordinance and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood

waters and the effect of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

e. Conditions for Variance

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing terms 2 through 6 below have been fully considered. As the lot size increases beyond the one half acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5.2.9 Zoning Regulations for Nonconforming Uses

a. Replacement of Residential Uses

If any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

b. Replacement of Non-Residential Uses

If any non-residential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the

provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

5.2.10 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

Actuarial Rates: Or "risk premium rates" are those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014, and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

Appeal: A request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding: A designated AO or AH zones on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual change of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

Base Flood Elevation: Elevation indicated in the official flood plain study as the elevation of the 100-year flood.

Base Flood Protection Elevation: An elevation one-foot higher than the water surface elevation of the base flood.

Channel: A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.

Community: Any state or area or political subdivision thereof which has authority to adopt and enforce flood plain management regulations for the area within its jurisdiction.

Development: Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Existing Construction: (For the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing Construction" may also be referred to as "existing structures".

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance, rates applicable to the community.

Flood Insurance Study: The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

Flood Plain Management: The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to, emergency preparedness plan, flood control works, and flood plain management regulations.

Flood Protection System: Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.

Floodplain (FP): That area of the flood plain, outside of the floodway, that on an average is like to be flooded once every 100 years (i.e. that has a one percent chance of flood occurrence in any one year.)

Floodway (FW): The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the heights calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or

storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Mobile Homes: A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the U.S. Department of Housing and Urban Development. For flood plain management purposes the term "mobile home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "mobile home" does not include park trailers, travel trailers, and other similar vehicles.

Mobile Home Planned Park District: A unified development under single ownership, providing spaces for rent or lease for the placement of mobile home units. Mobile Home Parks usually include common areas and facilities for management, recreation, laundry, utility services, storage, and other services.

New Construction: Structures for which the "start of construction or substantial improvement" is commenced on or after the effective date of the FIRM.

100-Year Flood: The base flood having a one percent chance of annual occurrence.

Overlay District: A district, which acts in conjunction with the underlying zoning district or districts.

Start of Construction: For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L97-348) includes substantial improvement, and means the date the building permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure: A walled and roofed building that is principally above ground. Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the

improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance: The limited relaxation of one or more of the zoning regulations applicable to a particular piece of property. The variance may be granted to avoid creating an unnecessary or undue hardship for the reasonable use of such property.

5.3 PUD Planned Unit Development District

5.3.1 Purpose

The PUD Planned Unit Development Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this Ordinance. The PUD District, which is adopted by the City Council with the recommendation of the Planning Commission, assures specific development standards for each designated project.

5.3.2. Permitted Uses

Uses permitted in a PUD Overlay District are those permitted in the underlying base district. A PUD project may provide mixed uses, including uses not otherwise permitted in the base district, with approval of a Special Use Permit by the Planning Commission.

5.3.3 Site Development Regulations

Site Development Regulations are developed individually for each Planned Unit Development District but must comply with minimum or maximum standards established for the base district, with the following exceptions:

- a. Lot area and lot width is not restricted, provided that the maximum density allowed for each base district is not exceeded.
- b. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.

5.3.4 Access to Public Streets

Each PUD District must abut a public street for at least 50 feet and gain access from that street.

5.3.5 Application Process

a. Development Plan

The application for a Planned Unit Development District shall include a Development Plan containing the following information:

1. A tract map, showing site boundaries, street lines, lot lines, easements, and proposed dedications or vacations.
2. A land use plan designating specific uses for the site and establishing site development regulations, including setback height, building coverage, impervious coverage, density, and floor area ratio requirements.
3. A site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.
4. A circulation plan, including location of existing and proposed vehicular and pedestrian, facilities and location and general design of parking and loading facilities.
5. Schematic architectural plans and elevations sufficient to indicate a building height bulk materials, and general architectural design.

5.3.6 Adoption of District

a. The Planning Commission and City Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.

b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.

c. The Planning Commission may recommend amendments to PUD district applications.

d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.

e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a PUD Planned Unit Development Overlay District.

f. An Ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable vote of one more than a simple majority of the City Council for approval if the Planning Commission recommends denial of the Ordinance.

g. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the PUD District. All approved plans shall be filed with the City Clerk.

5.3.7 Amendment Procedure

a. Major amendments to the Development Plan must be approved according to the same procedure set forth in Section 5-7.

5.3.8 Building Permits

The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan or any approved amendments.

5.3.9 Termination of PUD District

If no substantial development has taken place in a Planned Unit Development District for three years following approval of the District, the Planning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

5.4 ED Environmental Resources District

5.4.1 Purpose

The ED Environmental Resources Overlay District enables the adoption of special performance standards in combination with site development regulations of a base district for areas of special environmental significance or sensitivity. These areas include hill environments; wetlands; forested areas; areas with unique soil or drainage characteristics; lake, river, or creek districts; and other areas with special environmental characteristics.

5.4.2 Procedure for Adoption

a. Proposal

The Planning Commission or the City Council may initiate the creation of a ED Environmental Resources Overlay District.

b. Requirements for Application

An application for the creation of an ED Overlay District must include:

1. A statement describing the proposed district's special environmental characteristics and stating the reasons for proposal of the district.
2. A map indicating the boundaries of the proposed ED Overlay District, specifying the base district(s) included within these boundaries.
3. Supplemental site development regulations and performance standards that apply to the proposed district.

5.4.3 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each ED Overlay District application.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to ED district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a ED Environmental Resources Overlay District.
- f. The Ordinance adopting the ED District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
- g. An Ordinance adopting a ED Overlay District shall require a favorable vote of one more than a simple majority of the City Council for approval if the Planning Commission recommends denial of the Ordinance.
- h. Upon approval by the City Council, each ED Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.
- i. Any protest against an ED Overlay District shall be made and filed as provided by Section 14-405, Revised Statutes of Nebraska, 1943, and amendments thereto.

5.4.4 Building Permits

Building or other development permits issued by the City in an ED District shall be consistent with the adopted ED District Ordinance.

5.5 HD Historic District

5.5.1 Purpose

The HD Historic Overlay District enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas of special historical or architectural significance within the City of Pawnee City. The District recognizes the importance of historically and architecturally significant districts to the character of Pawnee City and provides for their conservation.

5.5.2 Procedure for Adoption

a. Proposal

The creation of a HD Historic Overlay District may be initiated by the Planning Commission, the City Council, or by petition of the owner or owners of 51% of the property area within the proposed district.

b. Requirements for Application

An application for the creation of an HD Overlay District must include:

1. A statement describing the proposed district's special historical or architectural characteristics and stating the reasons for proposal of the district
2. A map indicating the boundaries of the proposed HD Overlay District, specifying the base district(s) included within these boundaries.
3. An inventory of the buildings or historically important sites located within the boundaries of the proposed district.
4. Supplemental site development regulations, design criteria, and performance standards that apply to the proposed district.

5.5.3 Adoption of District

a. The Planning Commission and City Council shall review and evaluate each HD Overlay District application.

b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.

c. The Planning Commission may recommend amendments to HD district applications.

d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.

e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a HD Historic Overlay District.

f. The Ordinance adopting the HD District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.

g. An Ordinance adopting a HD Overlay District shall require a favorable vote of one more than a simple majority of the City Council for approval if the Planning Commission recommends denial of the Ordinance.

h. Upon approval by the City Council, each HD Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.

i. Any protest against an HD Overlay District shall be made and filed as provided by Section 14-405, Revised Statutes of Nebraska, 1943, and amendments thereto.

5.5.4 Building Permits

Building or other development permits issued by the City in a HD District shall follow procedures for review and approval established within the City's Landmarks Preservation Ordinance.

ARTICLE SIX: SUPPLEMENTAL USE REGULATIONS

6.1 Purpose

The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional control in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Ordinance.

6.2 Supplemental Use Regulations: Agricultural Uses

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal Ordinance or statute.

a. Horticulture and Crop Production: Retail Sales

Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the AG District, subject to the following requirements:

1. Garden Centers

(a) A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants.

(b) Garden centers must conform to all site development regulations for the zoning district.

(c) Any garden center adjacent to a residential district must maintain a 30-foot landscaped buffer yard consistent with the standards established in Sections 8-4 and 8-5.

(d) The establishment of a garden center in an AG or RR district is subject to the Conditional Use Permit procedure set forth in Article 12.

2. Roadside Stands

(a) A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.

(b) A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.

(c) A roadside stand may operate for a maximum of 180 days in any one-year.

b. Commercial Feed Lots

1. Commercial feed lots shall not be located in the first one-half (1/2) mile of the one (1) mile extra-territorial jurisdiction of the City of Pawnee City. Commercial feedlots shall be located at least one quarter (1/4) mile from the nearest dwelling other than that of the owner or operator, shall not be located within one hundred (100) feet of the property lines of the parcel of land on which it is located, and shall be located at least one-half (1/2) mile from the nearest non-agricultural use.

2. Livestock wastes within a confinement area shall be removed or disposed of by spraying or spreading on land; promptly followed by disking, plowing, grinding or dehydrating in properly designed dehydrators; or stockpiling in a compost plant located at least one (1) mile from a residential zoning district.

3. Insect and rodent control measures must be instituted for confined areas by removal or disposal of manure; or by other accepted insect and rodent control measures.

4. Drainage

(a) All ground surfaces within confinement areas shall be graded and compacted to insure proper drainage.

(b) Surface runoff from confinement areas shall be controlled so that no appreciable amount of soil and livestock waste is carried into any roadway ditch, drainage area, or other low-lying area.

5. Pollution Control

A confined area shall not produce a measurable increase in pollution in any public water-based recreational facility, in any public water supply, or in any waterway that is part of a public or private water supply.

6.3 Supplemental Use Regulations: Residential Uses

a. Zero-Lot Line Single-Family Detached Residential

Within a common development, one interior side yard may be equal to zero for single-family detached residential use, subject to the following additional regulations:

1. The side yard opposite to the zero yards must equal at least twice the normal required side yard.

2. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.

3. An easement for maintenance of the zero lot line facade is filed with the Pawnee County Clerk and the City Clerk at the time of application for a building permit.

b. Single-Family Attached

When permitted, the minimum side yard opposite the common wall shall be equal to twice the normal required side yard.

c. Townhouse Residential

Where permitted, townhouse residential is subject to the following regulations:

1. The site area per unit must be 3,750 square feet in the R-2 District and 2,000 square feet in all other districts where permitted.

2. The minimum width for any townhouse lot sold individually shall be 20 feet, except within an approved creative subdivision.

3. Coverage percentages are computed for the site of the entire townhouse common development.

d. Two-Family Residential

1. The second dwelling unit shall be located to the rear of the site and shall be separated from the front dwelling unit by a minimum of 25 feet.

2. A driveway shall serve the second dwelling unit at least ten feet in width, leading from a public street adjacent to the lot.

e. Multi-Family and Group Residential in TC District

Multi-family and Group Residential uses are permitted in the TC district only on levels above street level except that a unit specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Council with the recommendation of the Planning Commission.

f. Mobile Home Residential in the MP District

The following regulations apply to the development of Mobile Home Planned Parks within the MP District. It is the intent of these regulations to provide areas within the jurisdiction for mobile homes; to provide for maintenance of high living standards within such areas; and to protect property against blight and depreciation.

1. Permitted Uses

After the effective date of this Ordinance, all mobile home units must be located within a planned park pursuant to these regulations. Permitted Uses in the MP District are set forth in Table 4-2.

2. Permitted Accessory Uses

The following uses of land, buildings and structures shall be permitted within this district provided they are recognized as accessory to the performance of uses permitted in Table 4-

- (a) Open or enclosed swimming pools.
- (b) Recreation or community use.
- (c) Occupancy of lots for recreational vehicles, travel trailers camping trailers, motor homes and park trailers. Such units to be allowed for use as a residence when connected to the proper utilities for up to six (6) months unless extended one time only by the Zoning Administrator for up to an additional six (6) months.
- d) Business offices for the management of the manufactured or mobile home park.
- e) Other accessory structures permitted in Residential Zoning Districts.

3. Certification

A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be required of all Mobile Home Planned Parks.

4. Minimum and Maximum Area

The contiguous area of a Mobile Home Planned Park shall be no less than two acres or more than ten acres.

5. Density Requirements

- (a) The minimum gross site area per dwelling unit shall be 4,000 square feet.
- (b) The minimum size of an individual mobile home space shall be 3,000 square feet.
- (c) Each mobile home space shall be at least 40 feet wide and clearly defined.

6. Site Development Standards

- (a) Setbacks: Each Mobile Home Planned Park shall have a minimum perimeter setback of 25 feet. No space for a dwelling unit or any other structure shall be permitted in the required setback.
- (b) Setback landscaping: All area contained within the required setbacks except sidewalks and private drives shall be landscaped.
- (c) Impervious Coverage: Impervious coverage for a Mobile Home Planned Park shall not exceed 50 percent of the total site area.
- (d) Open Space: Each Mobile Home Park shall provide a minimum of 300 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians.
- (e) Separation Between Units: The minimum separation between a mobile home unit and attached accessory structure and any other mobile home units and/or accessory structure shall be 15 feet.
- (f) Separation and Setbacks for Accessory Buildings: An accessory building on a mobile home space maintains a minimum rear and side yard setback of five feet. A minimum distance of ten feet shall be provided between any mobile home and an unattached accessory building.

7. Street Access and Circulation Requirements

- (a) Access to Public Street: Each Mobile Home Planned Park must abut and have access to a dedicated public street with a right of way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.
- (b) Vehicular Circulation: The Mobile Home Planned Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width

shall be 27 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 90 feet. No such cul-de-sacs may exceed 300 feet in length.

(c) Separation between Units and Circulation Areas: The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be ten feet.

(d) Sidewalks: Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least four feet.

(e) Street and Sidewalk Standards: All internal streets and sidewalks shall be hard surfaced. Electric street lighting is required along all internal streets.

(f) Parking Requirements: Each Mobile Home Park must provide at least one off-street parking stall for each mobile home space.

8. Utilities: All Mobile Home Planned Parks shall be provide individual units and common facilities with an adequate piped supply of water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space. Individual units shall have utility service the same as is required for a single-family residential unit.

9. Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project and a construction schedule.

10. Completion Schedule: Construction must begin on any approved Mobile Home Planned Park within one year of the date of approval by the Planning and Zoning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.

6.4 Supplemental Use Regulations: Civic Uses

a. Clubs

Clubs located adjacent to residential uses shall maintain a buffer yard of not less than fifteen feet along the common boundary with such residential use.

b. Day Care

Day care facilities are permitted by Special Use permit in the IN Industrial Zoning District only if incidental to a permitted primary use.

c. Group Care Facilities and Group Homes

Either the State of Nebraska or the appropriate governmental subdivision must validly license each group care facility or group home.

6.5 Supplemental Use Regulations: Commercial Uses

a. Auto Repair, Equipment Repair and Body Repair

1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building.
2. Any spray painting must take place within structures designed for that purpose and approved by the Zoning Administrator.

b. Auto Washing Facilities

1. Each conveyor-operated auto washing facility shall provide 100 feet of stacking capacity per washing lane on the approach side of the washing structure and stacking space for two vehicles on the exit side.
2. Each self-service auto washing facility shall provide stacking space for two (2) automobiles per bay on the approach side and one (1) space per bay on the exit side of the building.

c. Automobile and Equipment Rental and Sales

1. All outdoor display areas for rental and sales facilities shall be hard-surfaced.
2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

d. Bed and Breakfasts

Bed and Breakfasts permitted by special use permit in the TC Town Center District must provide any sleeping facility only on levels above street level except that units' specifically designed and reserved for occupancy by handicapped people may be located on the street level.

e. Campground

1. **Minimum Size:** Each campground established after the effective date of this title shall have a minimum size of five acres.
2. **Setbacks:** All campgrounds shall maintain a 50-foot front yard setback and a 25-foot buffer yard from all other property lines.
3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternatively, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

f. Convenience Storage

When permitted by special use permit in the AG, IN and GC Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be two acres.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.

3. All driveways within the facility shall provide a rocked or hard surface with a minimum width of 25 feet.
4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
5. No storage buildings may open into required front yards.
6. Facilities must maintain landscaped buffer yards of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by article Eight.

6.6 Supplemental Use Regulations: Industrial Uses

a. Resource Extraction

Resource extraction, where permitted, is subject to the following additional requirements:

1. Erosion Control: A resource extraction use may not increase the amount of storm run-off onto adjacent properties. Erosion control facilities, including retention and sediment basins, are required of each facility if necessary to meet this standard.
2. Surface Drainage: The surface of the use may not result in the collection or ponding of water, unless specifically permitted by the City Council.
3. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.
4. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:
 - (a) Restoration of slopes to a gradient not exceeding 33% as soon as possible.
 - (b) Installation of perimeter safety screening.
 - (c) Installation of visual screening adjacent to any property within a residential or public use district.
5. Restoration of Landscape: The topography and soil of the resource extraction site shall be restored and stabilized within nine months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternatively, the site may be used as a lake or body of water, subject to approval by the City Council with the recommendation of the Planning Commission and the Nemaha Resources District.

b. Salvage Services

1. Screening:
 - (a) The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be ten feet. Any such enclosure shall be constructed behind required landscaped buffer yards.

(b) All enclosures shall be of uniform height, texture and color, and shall be maintained by the proprietor to ensure maximum public safety and to completely obscure the public view of materials stored in the facility.

2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
3. No Salvage Services use may be established within 300 feet of the nearest property line of a residential, public or civic use-zoning district.
4. No loading, unloading or any other operational activity involving salvage materials may take place outside the boundaries of the enclosure. Burning of any materials shall be prohibited.

6.7 Supplemental Use Regulations: Miscellaneous Uses

a. Landfills

Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.

b. Animals

Wild or Exotic Animals: No wild or exotic animals shall be kept within the city limits of The City of Pawnee City without the necessary state and/or federal permits.

6.8 Supplemental Use Regulations: Accessory Uses

a. Home Occupations

Home occupations are permitted as an accessory use in residential units subject to the following conditions:

1. External Effects: No noise, odors, bright lights, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.
2. Employees: A home occupation may not employ individuals other than the residents of the dwelling unit.
3. Service Traffic: Deliveries or service by commercial vehicles or trucks over ten tons licensed weight is prohibited.
4. The home occupation shall be carried on entirely within the principal residential structure and/or within a detached accessory building approved by the City in accordance with this Zoning Ordinance.
5. No outdoor storage of material or equipment used in the home occupation shall be permitted. Parking or storage of heavy commercial equipment or vehicles used to conduct the home occupations is prohibited.

Signage: Each home occupation shall be permitted to have one wall sign not to exceed four (4) square feet in area.

Prohibited Home Occupations:

The following activities are prohibited as Home Occupations even if they meet the requirements set forth in this section:

1. Animal Hospital.
2. General retail sales.
3. Mortuaries.
4. Repair shops or service establishments.
5. Stables or kennels.
6. Welding shops, vehicle body repair or the rebuilding or dismantling of motor vehicle.

b. Permitted Accessory Uses: Residential Uses

Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residential use, including the renting of the private garage, to an individual who does not live at the residence, for its intended use, i.e. off street parking of a motor vehicle.
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 6-8 (a) of these regulations.
4. Residential convenience services for multi-family uses or mobile home parks.
5. Garage sales provided that the frequency of such sales at any one location shall not exceed one during a continuous two-month period or four sales during any twelve-month period.
6. Within the RR Rural Residential District only, any lot of 2 acres and over may maintain one horse, llama, other hoofed animal, or bird. Such a lot may have one additional animal for each additional full acre of lot area over two acres, up to a maximum total of five animals.

c. Permitted Accessory Uses: Civic Use Type

Guidance Services and Health Care use types are permitted in the IN Industrial zoning districts only as accessory uses to a primary industrial use.

d. Permitted Accessory Uses: Other Use Types

Other use types may include the following accessory uses, activities, and structures on the same lot:

1. Parking for the principal use.
2. Manufacturing or fabrication of products made for sale in a principal commercial use,

provided that such manufacturing is totally contained within the structure housing the principal use.

3. Services operated for the sole benefit of employees of the principal use.

e. Permitted Accessory Uses: Agricultural Use Types

1. Garden centers and roadside stands, subject to the regulations set forth in Section 6-2(a) 1&2.

2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

6.9 Supplemental Use Regulations: Outdoor Storage

Outdoor storage is prohibited in all zoning districts except the IN Industrial zoning districts, except as provided in this section.

a. Agricultural Use Type

Outdoor storage is permitted where incidental to agricultural uses.

b. Civic Use Types

Outdoor storage is permitted where incidental to Maintenance Facilities.

c. Commercial Use Types

1. Outdoor storage is permitted where incidental to Agricultural Sales and Service; Auto Rentals and Sales; Construction Sales; Equipment Sales and Service; Stables and Kennels; and Surplus Sales.

2. Outdoor storage is permitted where incidental to Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Article 8, Section 8.5. This provision shall apply to any Body Repair use established after the effective date of this Ordinance.

d. Industrial and Miscellaneous Use Types

Light Industry within the TC Central Business District zoning district may not include outdoor storage.

6.10 Supplemental Use Regulations: Temporary Uses

a. Purpose

These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of the Zoning Ordinance and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.

b. Temporary Use Types

The following temporary uses are permitted, subject to the regulations contained within these sections:

1. Model homes or apartments, if contained within the development to which they pertain.

2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
3. Public assemblies, displays, and exhibits.
4. Commercial circuses, carnivals, fair, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within a TC or more intensive zoning district.
5. Outdoor art shows and exhibits.
6. Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.
7. Construction site offices if located on the construction site.
8. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
9. Construction Batch Plants, provided that:
 - (a) No plant may be located within 600 feet of a developed residential use, park, or school.
 - (b) The facility is located no more than one mile from its job site. The Zoning Administrator may extend this distance to two miles, if such extension avoids use of local streets by plant-related vehicles.
 - (c) Hours of operation do not exceed 12 hours per day.
 - (d) The duration of the plants operation does not exceed 180 days.
10. Additional temporary uses that the Zoning Administrator determines to be similar to the previously described uses in this section.

c. Required Conditions of All Temporary Uses

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
2. The Zoning Administrator may establish other conditions, which he/she deems necessary to ensure compatibility with surrounding land uses.

d. Permit Application and Issuance

1. An application to conduct a temporary use shall be made to the Zoning Administrator and shall include at a minimum a description of the proposed use; a diagram of its location;

information regarding hours and duration of operation; and other information necessary to evaluate the application.

2. The Zoning Administrator may authorize a temporary use only if he/she determines that:
 - (a) The use will not impair the normal operation of a present or future permanent use on the site.
 - (b) The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.
3. The duration of the permit shall be explicitly stated on the permit.
4. Decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

6.11 Special Conditions: truck vans, semi-trailers, or shipping containers

No truck vans, semi-trailers, shipping containers, wrecked, junked or partially dismantled vehicle may be stored or parked in residential districts except within a building.

6.12 Small and Commercial Wind Energy Conservation Systems

6.12.1 Intent

In order to balance the need for clean, renewable energy sources with the protection of the health, safety and welfare of the residents of Pawnee City, Nebraska, finds these regulations are necessary in order to ensure that all wind energy conversion systems are appropriately designed, sited and installed.

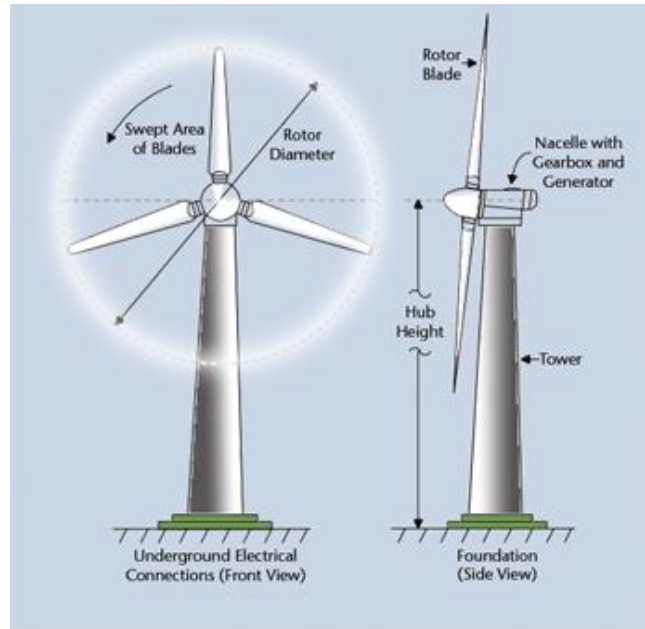
These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. The City of Pawnee City recognize that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

6.12.2 Types of Wind Energy Systems:

a. Small wind energy conversions systems (SWECS) A wind energy conversion system which has a rated capacity of up to twenty five (25) kilowatts and which is incidental and subordinated to another use of the same parcel. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, access electrical power generated and not presently needed for onsite use may be sold back to the utility company. (25 Kilowatt limit approved by the Pawnee City Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendments)

b. Commercial Wind Energy Conservation System (CWECS) A wind energy conversion system

under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, who's main purpose is to supply electricity to off-site customers.



Drawing of the rotor and blades of a wind turbine, courtesy of ESN

c. Feeder line – Any power line that carries electrical power from one or more turbines or individual turbines to the point of interconnection with the electrical power grid, in the case of interconnection with the high voltage transmission system the point of the interconnection shall be the substation serving the WECS.

d. Height, hub – The height above grade of the fixed portion of the tower, including the generating unit, measured to the hub or center point of the rotor blade diameter.

e. Height, total system – The height above grade of the system, including the generating unit and measured the highest vertical extension of any rotor blades or rotors.

f. Meteorological tower – For the purpose of wind energy conservation systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.

g. Rotor diameter – The diameter of the circle created by the outer most point of the rotor blades of the windmill.

h. Shadow flicker – Strobe effect that occurs when sun is horizontal to rotor blades, which cause repetitive intermittent shadows that can affect people on adjacent or near-by properties.

i. Substations – Any electrical facility utilized to convert electricity produced by a commercial wind energy conversion system for interconnection with high voltage transmission lines.

j. Tower – The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

k. Transmission Line – The electrical power lines that are high voltage transmission lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

l. Wind Energy Conservation System (WECS) – An aggregation of parts including the base, tower, generator, rotor, blades, supports and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill or wind turbine.

m. Wing turbine generator – the component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

6.12.3 Small Wind Energy Conservation System:

A Small Wind Energy Conversion System (SWECS) is a facility used for the production of a maximum of twenty five (25) kilowatts of electrical energy supplied by the wind. The facility may include wind turbine(s) with total height(s) of one hundred (100) feet or less and any transmission lines. The SWECS is primarily used to generate energy for use by the owner. A small wind energy facility shall be sited and designed to maximize adverse visual impacts on neighboring properties. *To be uses in conformance with Nebraska State Statues 70-2001 through 70-2005, regarding net metering. (25 kW limit approved by the Pawnee City Planning Commission to increase to a maximum of 100 kW's with Nebraska State Legislature authorization by future amendment).*

a. General Site and Design Standards:

1. Located on a lot or parcel of at least three (3) acres.
2. Shall be permitted by and approved Special Use Permit to be issued in the AG, RR, R1, R2, R3, MP, TC, GC and IN zoning districts.
3. SWECS shall maintain a minimum setback distance from any property line of one and one-half (1.5) times the total system height of the windmill from non-participating property owners. Adjoining property owners (second or third additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers) participating in the same or aggregated project shall have no setback requirements between adjoining properties.
4. SWECS shall maintain a minimum setback distance from any public road or highway of at least on point one (1.1) times the total system height of the windmill from the public road or highway right-of-way.
5. In no case shall a SWECS be located within any required setback or in any front yard area.

6. Turbines and towers shall be of tubular design and if painted or coated, shall be of a non-reflective white, grey or other neutral color and shall not be used to display advertising.
7. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
8. All electrical wires associated with a small wind energy system other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
9. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
10. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or ladder within eight (8) feet of the ground that is readily accessible to the public.
11. The owner of a small wind energy facility shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by the facility.
12. Construction access must be regraded and revegetated to minimize environmental impacts.
13. A SWECS application must include an agreement that addresses decommissioning and abandonment of facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

b. Application Requirements:

1. A survey map at an appropriate scale identifying:
 - (a) Site boundary.
 - (b) Adjacent public right-of-ways.
 - (c) Existing structures.
 - (d) Proposed small wind energy system and accessory structures, adjacent ownership and existing residences.
 - (e) Any overhead utility lines.
2. A report from a licensed engineer containing:
 - (a) Small wind system specification including manufacturer and model, rotor diameter, tower height, and tower type (freestanding or guyed).
 - (b) Documentation to establish that the tower has sufficient structural integrity for the purposed use at the proposed location.
 - (c) Certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.

3. Compliance with FAA regulations, including any documentation required by the FAA certifying approval of proposed location when located within the three (3) mile Planning Jurisdiction of any airport.

4. Signed letter of notification by the property owner submitted to the electrical supplier/purchaser, Pawnee County Assessor's office, and City of Pawnee City Zoning Administrator signifying utility service is approved.

5. Required proof of insurance on application.

6.12.4 Commercial Wind Energy Conversion System- (CWECS)

A wind energy conversion system under common or aggregated ownership or operating control that includes substation, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.

CWECS may be included as an aggregated project. Such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project. All individual wind turbine towers of an aggregated project shall be in conformance with Section 6.55 (a.) items 1-15.

a. General Site and Design Standards:

1. Located on a lot or parcel of at least ten (10) acres in size.

2. The entire aggregated project shall be permitted by a Special Use Permit in an "AG" district.

3. If an aggregated project, setbacks from multiple entities (turbines) shall be on and one-tenth (1.1) times the height of the total system.

4. Each CWECS must have a 911 address.

5. CWECS shall be designed and placed in such a manner as to minimize to the greatest extent feasible, adverse visual and noise impacts on adjacent areas. This shall include documentation of:

(a) Noise levels conforming to the International Electromechanical Commission (IEC) Standard 61400-11 part 11.

(b) Projections of the "shadow flicker" on any existing structures located off the property on which the CWECS will be constructed and the extent and duration of the shadow flicker on these existing structures.

6. CWECS shall maintain a minimum setback from any property line of one and one-half (1.5) times the total system height of the windmill for non-participating property owners.

Adjoining property owners participating in the same aggregated project shall have no setback requirements between adjoining properties.

7. CW ECS shall maintain a minimum setback distance from any public road or highway of at least one point one (1.1) times the total system height of the windmill from the public road or right-of- way.

8. In no case shall a CW ECS be located within any required setback or any front yard area.

9. Structures for wind turbines shall be self-supporting tubular towers, if painted or coated shall be of a non-reflective neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.

10. Colors and surface treatment of the CW ECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.

11. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker and blade glint affecting residences within or immediately adjacent to the project area.

12. CW ECS shall be equipped with air traffic warning lights or other marking lights only if so required by the FAA and in which event, such lights should be positioned or shielded to avoid visual impact on neighboring properties, and shall be a white flashing light from daylight till twilight and a steady red light at night time. Light system must be maintained and working at all times.

13. The application shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

14. A meteorological tower is permitted by a Special Use Permit for the purpose of the aggregated project. Meteorological towers shall meet the same setback requirements of those established for an aggregated project. If the tower is non-functional, it shall be removed after a period of two (2) years.

15. CW ECS shall have a minimum setback of one-quarter (1/4) mile from any adjacent residence not owned by the owner of the CW ECS. However, no setback is required between an adjacent residence of an owner participating in the same aggregated project.

6.12.6 Application Requirements:

The applicant for a Special Use Permit for construction of a CW ECS shall file an application with the City of Pawnee City Zoning Administrator. The application shall include the name(s) of the project applicant(s), the name of the project owner(s), and the legal description and address

for the project. The application shall also include the following documents:

a. A survey map illustrating the following:

1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation.
2. Location and elevation of all components of the proposed CWECS.
3. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system.
4. Height of any structures over thirty-five (35) feet with five hundred (500) foot radius on site or offsite of the proposed CEWCS.
5. Location of any overhead utility lines on the property.
6. Location of all communication towers within two (2) miles of the proposed CWECS.
7. Access roads.
8. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries ,federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves or habitat areas to a distance of 2,640 feet (one-half) mile.
9. Provide a copy of the easement deed from the Pawnee County Register of Deeds Office for each property involved in the CWECS.
10. Provide a map illustrating all transmission lines connecting to the substation.
11. Copy of agreement or notification of completion letter between the Pawnee City Airport Authority and the applicant.

b. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitation due to public health and safety risk shall be specifically addressed and the effects on the following activities shall also be addressed:

1. Existing or proposed tourist or recreation activities.
2. Residential activities.
3. Industrial activities.
4. Agricultural activities.
5. Commercial activities.

c. Soil erosion, sediment control and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:

1. Grading.
2. Construction and drainage of access roads and turbine pads.
3. Design features to control dust.
4. Design features to maintain downstream water quality.
5. Re-vegetation to ensure slope stability.
6. Restoring the site after temporary project activities.
7. Disposal or storage of excavated material.
8. Protecting exposed soil.
9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized.
10. Maintenance of erosion controls throughout the life of the project.

d. Applicant shall provide information regarding flora and fauna of the proposed project are including:

1. Officially listed threatened or endangered species.
2. Critical habitat conditions.
3. An avian study based on the US Fish and Wildlife Service “Interim Guidelines to avoid and minimize wildlife impacts from wind turbines”.

e. Standard drawings of the structural components of the CWECS, including structures, tower, base and footings.

f. Certification by a registered engineer that:

1. There is a substantial need for the proposed use or CWECS, one-hundred (100) kW or generator.
2. All applicable local, state and federal buildings, structural and electrical codes have been followed.
3. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Pawnee City.

4. The rotor and over speed control have been designed for the proposed use on the proposed site.
5. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour.
6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

6.12.7 Construction and Operation

- a. All public roads to be used for the purpose of transporting CWECS, substation parts, cement or equipment for construction, operation or maintenance of the CWECS shall be identified and applicable weight and size permits from the impacted road authority (ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are applicant(s); landowner(s); CWECS owners; township representative(s); highway superintendent and or zoning administrator. The survey shall include photographs and written agreements to document the conditions of the public roads and facilities. All expenses of the survey shall be the applicants' responsibility.
- b. The CWECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation or maintenance of the CWECS.
- c. Solid and hazardous waste, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oil and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

6.12.8 Safety Measures

- a. Each CWECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- b. The Planning Commission shall determine the height, color and type of fencing, if needed, for the CWECS installation. CWECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment and entrances. The sign shall contain the following information:
 1. Warning-high voltage.
 2. Manufacturer's name.
 3. Operator's name.
 4. Emergency phone number.
 5. Emergency shutdown procedures.
- c. Each CWECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code (NEC).

d. Any CWECS facility shall be equipped with anti-climbing devices. Tower climbing is capable of being climbed; locked, protective fence at least six (6) feet high shall enclose the tower.

e. The CWECS operator shall maintain a current insurance policy which will cover liability, installation, operation and any possible damage or injury that might result from the failure of a tower or towers or any other parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CWECS shall be warranted against any system failure reasonably expected in severe weather operation conditions.

6.12.9 Discontinuation and decommissioning:

a. CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City of Pawnee City Zoning Administrator outlining the steps and schedule for returning the CWECS to service. All CWECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuance of use. This period may be extended by the zoning Administrator following a written request by an agent of the owner of the CWECS.

b. Each CWECS shall have a decommission outlining the anticipated means and cost of removing CWECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimate shall be made by a competent party, such as a profession engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning.

c. At the end of the aggregated project's useful life, the entire site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

Noise:

No CWECS shall exceed 60dba at the nearest structure occupied by humans. In the event of periods of severe weather, as defined by the United States Weather Service, a CWECS may exceed 60 dba.

ARTICLE SEVEN: SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

7.1 Purpose

The Supplemental Site Development Regulations recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this title and provide for specific areas of exception.

7.2 Setback Adjustments

a. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.

b. Exceptions to Openness of Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

1. Windowsills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project two feet into a required yard.
2. Terraces, patios, uncovered decks, and ornamental features, which have no structural element more than two feet above or below the adjacent ground level, may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or twenty feet from any street property line.
3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 1/2 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
4. For buildings constructed upon a front property line, a cornice may project into public right of way. Maximum projection is the smaller of four feet or five percent of the right of way width.
5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
6. Accessory buildings in residential districts, including private and community garages, may be located a minimum of five (5) feet from the side or rear lot line if set back sixty feet or more from the front lot line.
7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.

c. Setback Adjustments

These provisions apply if fifty percent or more of the buildings on that block face have front yard setbacks less than those required for the specific district

1. If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.
2. If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.
3. If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the block face.

d. Rear Yard Exceptions - Residential Uses

When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than sixty percent (60%) of the rear yard required by the zoning district.

e. Double Frontage Lots

Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

f. Parabolic Antennas

1. Parabolic antennas which are accessory to a primary use and are designed to receive radio or television signals from satellites shall not be located within any street yard of the primary use.
2. Such antennas shall be located no less than fifteen feet from the property line of an adjacent property within a residential zoning district.

7.3 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

a. Vertical Projections

Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may exceed the height limit of any district by not more than 25 percent.

b. Radio Towers

1. Radio towers, operated by licensed amateur radio operators, may exceed the height limit of any district by not more than 25 percent. This exception does not apply to parabolic antennas, designed to receive signals from satellites.

2. Such radio towers shall not be located within any street yard of the primary use, and shall be located no less than 110 percent of the tower's height from a property line of an adjacent property within any zoning district.

c. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation systems are exempt from the height restrictions of the base district.

d. Special Permit Uses

The City Council with the recommendation of the Planning Commission may grant an exception from the height limit for a zoning district with a special use permit. The limit or extent of this exception shall be a specific part of the special use permit.

e. Federal Aviation Administration Rules

No structure may be built in any zoning district, which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Pawnee City.

7.4 Fence Regulations

a. Location Restriction

Unless otherwise provided by this title or other sections of the Pawnee City Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.

b. Required Openings

Unless otherwise provided by this title or other sections of the Pawnee City Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.

c. Sight Obstruction

No solid fence permitted or required by this title or other sections of the Pawnee City Municipal Code shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 30 feet on each leg from their point of intersection.

d. Facing

The finished surfaces of any fence shall face toward adjacent properties and street frontage.

e. Residential Fences

Fences constructed, after passage of this ordinance, within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be four feet. The maximum height for any fence outside of a required front yard shall be eight (8) feet.

2. Exception for Street Side Yards: On corner lots, a fence built along the street side yard in conformance with the required street yard setback may have a maximum height of six feet.

3. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed the 50 percent closed construction requirement.

4. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City of Pawnee City; and if such frontage does not provide primary access to the property.

f. Office Commercial and Industrial Fences

Fences constructed, after passage of this ordinance, in commercial and industrial districts are subject to the following special provisions:

1. TC District: The maximum height of a fence in the TC District may not exceed eight (8) feet.

2. GC and IN Districts: The maximum height of a fence within a required front yard or street side yard setback shall be six feet. The maximum height for a fence outside of required front yard or street side yard setbacks shall be ten feet.

g. Damage or Destruction of a Nonconforming Fence

Should a nonconforming fence be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the fence, the entire fence shall meet all regulations of this ordinance.

h. Fence is a Structure

For purposes of this article a fence shall be considered a structure.

7.5 Appeals

Denial, revocation or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Sections 12-8 and 12-9.

ARTICLE EIGHT: LANDSCAPING AND SCREENING REGULATIONS

8.1 Purpose

The Landscaping and Screening Regulations provide additional guidance on the development of sites within Pawnee City by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land uses from one another; and conserve the value of properties within the City of Pawnee City.

8.2 Applicability

The provisions of this section shall apply to all new development on each lot or site upon application for a building permit, except for the following:

- a. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
- b. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
- c. Additions or enlargements of existing uses or structures that increase floor area or impervious coverage area by less than 20 percent. Where such additions or enlargements are 20 percent or greater, these provisions shall apply only to that portion where the new development occurs.

8.3 Landscaping Requirements

Landscaping shall be required adjacent to each street property line and within street yards as set forth in Table 8-1.

**TABLE 8-1
REQUIRED LANDSCAPING DEPTH**

| <u>Zoning District</u> | <u>Depth of Landscaping Adjacent to Street Property Line</u> |
|-------------------------------|---|
| AG | 35 feet |
| RR | 35 feet |
| R-1 | 20 feet |
| R-2 | 15 feet |
| R-3 | 15 feet |
| MP | 35 feet |
| TC | No Requirement |
| GC | 10 feet |
| IN | No Requirement |

8.4 Buffer Yard Provisions

These provisions apply when a use is established in a more intensive zoning district, which is adjacent to a less intensive zoning district. The owner, developer, or operator of the use within the more intensive district shall install and maintain a landscaped buffer yard on his/her lot or site, as set forth in this section. Buffer yard requirements apply only to those districts indicated in Table 8-2.

- a. The buffer yard dimensions set forth in Table 8-2 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.
- b. When a street separates adjacent zoning districts requiring a buffer yard, the size of the buffer yard shall be one-half the required buffer yard set forth in Table 8-2.
- c. Each required buffer yard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

**TABLE 8-2
BUFFER YARD REQUIREMENTS
(FEET)**

| | | Less Intensive District | | | | | |
|---------------------------------------|-----------|--------------------------------|-----------|------------|------------|------------|-----------|
| | | AG* | RR | R-1 | R-2 | R-3 | MP |
| <u>More Intensive District</u> | GC | 20 | 20 | 20 | 20 | 20 | 20 |
| | IN | 30 | 35 | 35 | 35 | 35 | 35 |

• For existing residential only

8.5 Screening Standards

a. Application

Screening is required between adjacent zoning districts indicated in Table 8-2 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district.

1. The rear elevation of buildings.
2. Outdoor storage areas or storage tanks, unless otherwise screened.
3. Loading docks, refuse collection points, and other service areas.
4. Major machinery or areas housing a manufacturing process.
5. Major on-site traffic circulation areas or truck and/or trailer parking.
6. Sources of glare, noise, odor, dust, smog, steam fog or other environmental effects.

b. Opaque Barrier

A six-foot opaque barrier shall be provided which visually screens the conditions listed in Section 8-5 (a) from less intensive uses as follows:

1. A solid wood and/or masonry fence or wall at least six feet in height.
2. A landscaping screen, using evergreen or deciduous materials, capable of providing a

substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting.

3. A landscaped earth berme with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.

4. Any combination of these methods that achieves a cumulative height of six feet.

c. Location of Screening Wall

A screening wall or fence shall be installed no closer to the less intensive-zoning district than one-half the width of the required buffer yard.

d. Screening: Effect on Drainage

Screening shall not adversely affect surface water drainage.

8.6 General Provisions

a. Time of Application

The provisions contained in this Article shall be applied for each individual lot or site when an application for a building permit on such lot is made. Landscaping, buffering and screening provisions apply only to the new building or structure for which the application for a building permit was made.

b. Maintenance of Required Landscaping

Upon installation of required landscape materials, each owner shall take appropriate actions to insure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistent with this Article.

c. Obstruction of View

Landscaping installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk.

d. Exceptions

A development may continue to comply with the buffer yard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with buffer yard or screening provisions.

ARTICLE NINE: OFF-STREET PARKING

9.1 Purpose

The Off-Street Parking Regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

9.2 General Applications

a. Applicability

Off-street parking shall be provided for any new building constructed.

b. Exemptions

Any use within the TC (Town Center) District is exempt from the off-street parking requirements provided by Section 9-3. Any off-street parking facility constructed in the TC District after the effective date of this Ordinance must comply with the design standards set forth in this Article.

9.3 Schedule of Off-Street Parking Requirements

Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 9-1.

a. Computation.

1. When a computation of required parking results in a fraction of .5 or greater, the requirement should be rounded up to the next whole number.
2. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.
3. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code in effect for the City of Pawnee City at the time the use is established.

**TABLE 9-1
OFF-STREET PARKING REQUIREMENTS**

| Agricultural Use Type | |
|------------------------------------|--|
| Horticulture | 1 space per 1,000 square feet of sales area. |
| Crop Production | No Requirement |
| Livestock Sales | No Requirements |
| Residential Use Type | |
| Single Family Detached or Attached | 2 spaces per dwelling unit. |
| Duplex Residential | 2 spaces per dwelling unit. |
| Two Family Residential | 2 spaces per dwelling unit. |
| Townhouse | 2 spaces per dwelling unit. |
| Multi family Residential | 1.5 spaces per dwelling unit. 1 space per 2 units for elderly housing. |
| Group Residential | 1 space for each two residents. |
| Mobile Home Residential | 2 spaces per dwelling unit. |
| Manufactured Home Residential | 2 spaces per dwelling unit. |
| Apartment Residential | No requirement |
| Civic Use Types | |
| Administration | 1 space per 500 feet. |
| Clubs | 1 space per 4 person capacity |
| Cemetery | No requirement |
| Convalescent Services | 1 space per 4 beds. |
| Cultural Services | 1 space per 1,000 square feet. |
| Day Care (Limited) | 1 space per 5 person capacity <i>plus</i> 1 space per employee of largest shift. |
| Day Care Licensed (General) | 1 space per 5 person capacity <i>plus</i> 1 space per employee of largest shift. |
| Group Care Facility | 1 space per 4 person capacity <i>plus</i> 1 space per employee of largest shift. |
| Group Home | 1 space per 4 person capacity <i>plus</i> 1 space per employee of largest shift. |

**TABLE 9-1
OFF-STREET PARKING REQUIREMENTS**

| Civic Use Type | <i>Continued</i> |
|-------------------------------|--|
| Guidance Services | 1 space per 300 square feet. |
| Health Care | 1 space per 300 square feet <i>plus</i> 1 space per employee of largest shift. |
| Hospital | 1 space per 2 beds |
| Maintenance Facilities | See Schedule A. |
| Parks and Recreation | No requirement. |
| Postal Facilities | See Schedule A. |
| Primary Education | 1 space per employee of largest shift <i>plus</i> 10 spaces for visitors. |
| Public Assembly | 1 space per 4 person capacity. |
| Religious Assembly | 1 space per 4 person capacity in largest assembly area. |
| Safety Services | 1 space per employee of largest shift <i>plus</i> 1 space per 1,000 square feet. |
| Secondary Education | 1 space per employee of largest shifts <i>plus</i> 1 space for each four-11th and 12 th grade students. |
| Utilities | 1 space per employee of largest shift. |
| Office Use Types | |
| General Offices | 1 space per 400 square feet. |
| | |
| Commercial Use Types | |
| Agricultural Sales – Services | See Schedule A. |
| Auto Rental and Sales | See Schedule A. |
| Auto Service | Three times service capacity. |
| Vehicle Body Repair | 4 spaces per repair stall. |
| Equipment Rental / Sales | See Schedule A. |
| Equipment Repair | See Schedule A. |
| Vehicle Storage | No Requirement. |
| Bed and Breakfast | 1 per rental unit plus 2 for residential use. |
| Business Support Services | 1 space per 500 square feet. |
| Camp Ground | 1 space per camping unit. |

**TABLE 9-1
OFF-STREET PARKING REQUIREMENTS**

| Commercial Use Types | <i>Continued</i> |
|-------------------------------|---|
| Cocktail Lounge | 1 space per 200 square feet. |
| Commercial Recreation | 1 space per 4 person capacity. |
| Communications Services | 1 space per 500 square feet. |
| Construction Sales & Services | See Schedule A. |
| Consumer Services | 1 space per 300 square feet. |
| Convenience Storage | 1 space per 10 storage units. |
| Food Sales | 1 space per 300 square feet. |
| Funeral Services | 4 spaces. |
| Gaming Facilities | 1 space per 300 square feet. |
| General Retail Services | 1 space per 300 square feet. |
| Laundry Services | 1 space per 500 square feet. |
| Liquor Sales | 1 space per 300 square feet. |
| Lodging | 1 space per unit. |
| Personal Services | 1 space per 500 square feet |
| Pet Services | 1 space per 500 square feet. |
| Restaurants | 1 space per 50 square feet of customer area. |
| Stables / Kennels | 1 space per employee <i>plus</i> 1 spaces per 5,000 square feet of site area. |
| Surplus Sales | See Schedule A. |
| Veterinary Services. | 1 space per 500 square feet. |

**TABLE 9-1
OFF-STREET PARKING REQUIREMENTS**

| Industrial Use Type | |
|---------------------------------------|--|
| Custom Manufacturing | See Schedule A. |
| Light Industry | See Schedule A. |
| General Industry | See Schedule A. |
| Heavy Industry | See Schedule A. |
| Resource Extraction | 1 space per employee on largest shift. |
| Salvage Services | See Schedule A. |
| Warehousing | See Schedule A |
| Construction Yards | See Schedule A. |
| Recycling Collection | No Requirement. |
| Recycling Processing. | 1 Space per employee. |
| | |
| Transportation Use Type | |
| Aviation Facilities | No requirement |
| Railroad Facilities | No requirement |
| Truck Terminal | 1 space per employee. |
| Miscellaneous Use Types | |
| Broadcasting Tower | No requirement. |
| Construction Batch Plant | 1 per 1.5 employees |
| WECS | No requirement |
| Landfill Nonputrescible | No requirement. |
| Landfill (putrescible) | No requirement |
| Alternative energy production device. | No requirement |

SCHEDULE A

This schedule sets forth-minimum off-street parking requirements for uses with elements that have different functions and operating characteristics.

| <u>Function of Element</u> | <u>Requirement</u> |
|--|--------------------------------|
| Office or Administration | 1 space per 400 square feet. |
| Indoor Sales, Display or Service Area | 1 space per 500 square feet. |
| Outdoor Sales, Display or Service Area | 1 space per 2,000 square feet. |
| Equipment Servicing or Manufacturing | 1 space per 1,000 square feet. |
| Indoor or Outdoor Storage or Warehousing | 1 space per 5,000 square feet. |

9.4 Parking Facility Location

a. Residential Parking

1. Off-street parking for residential uses shall be located on the same lot or site as the use.
2. Off-street parking areas for multi-family or group residential uses shall be at least six feet from any main building; and shall not be located within a required front yard or street side yard.

b. Non-residential Parking

Off-street parking for non-residential uses shall be located on the same lot or site as the use or within 300 feet of that use if the parking site is zoned for such parking.

9.5 Handicapped Parking

Each off-street parking facility shall provide the number of parking spaces set forth in table 9-2 designed and designated for use by people with handicaps. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the Americans with Disabilities Act. Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

TABLE 9-2
ACCESSIBLE PARKING REQUIREMENTS

| Number of Spaces | Number of Required Accessible Spaces | Number of Spaces | Number of Required Accessible Spaces |
|-------------------------|---|-------------------------|---|
| 1-25 | 1 | 151-200 | 6 |
| 26-50 | 2 | 201-300 | 7 |
| 51-75 | 3 | 301-400 | 8 |
| 76-100 | 4 | 401-500 | 9 |
| 101-150 | 5 | 501-1000 | 2% of total |
| | | 1001+ | 20, plus 1 for each 100 over 1000 |

9.6 Off-Street Parking Design Standards

a. Dimensions

1. Standard parking stalls shall be a minimum of 9 feet wide and 18 feet long.
2. Parking facilities may provide up to 40% of their total stalls as designated compact stalls. Compact parking stalls shall be a minimum of 8.5 feet wide and 16 feet long.
3. Spaces designated for the handicapped shall have a minimum width of 12 feet. Each handicapped space shall provide a barrier free route to an accessible building entrance, which shall not require users to walk or wheel behind parked cars. Such spaces shall be designated with an upright sign universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.

b. Pavement and Drainage

1. Off-street parking facilities shall be surfaced and maintained with materials sufficient to prevent mud, dust, or loose material.
2. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties or public rights of way.

c. Landscape and Screening Requirements

Unless otherwise noted, each unenclosed parking facility of over 3,000 square feet shall comply with the following regulations:

1. Each unenclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.
2. Each parking facility that abuts a residential district shall provide a ten foot landscaped buffer along its common property line with the residential district.
3. Any parking facility, which abuts property in a residential district, shall provide a fence, wall, landscape screen, or earth berme not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site features which blocks the sight

line of headlights into a residential property may satisfy this requirement, subject to the determination of the Zoning Administrator.

4. Each unenclosed parking facility of over 4,500 square feet within a street yard shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility. Parking facilities within the IN District shall be exempt from this requirement.

5. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in Article Eight.

d. Entrances and Exits

1. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.

2. Parking facilities other than driveways for single family, duplex, two families, or mobile home residential uses must permit vehicles to enter streets in a forward position.

e. Safety Features

1. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.

2. Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

f. Maintenance

All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

g. Adjustment

For uses subject to Special Use Permit approval, the City Council, with the recommendation of the Planning Commission, may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this Article.

9.7 Off-Street Loading

a. Loading Requirement

Any use, which involves the receipt or distribution of freight, merchandise, supplies, vehicles, or equipment as part of its typical operation, shall provide and maintain adequate space for off-street loading and circulation. Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks.

b. Schedule of Loading Spaces

Loading spaces for each use requiring them shall be provided in accord with the minimum requirements set forth in Table 9-3.

**TABLE 9-3
OFF- STREET LOADING REQUIREMENTS**

| Gross Floor Area of Use (square feet) | Number of Required Loading Spaces |
|--|--|
| 5,000 or less | None |
| 5,001-25,000 | 1 |
| 25,001-75,000 | 2 |
| Larger than 75,000 | 3 |

c. Design Standards

1. Each loading space shall be at least 10 feet wide by 50 feet long, with a vertical clearance of at least 14 feet.
2. Paving of loading spaces and access areas shall be permanent, durable, and free from dust.
3. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Article.

9.8 Parking for Personal and Recreational Vehicles

a. Applicability

This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include passenger cars, vans, pick-up trucks, recreational vehicles, and trailers less than forty feet in length, and boats.

b. Location of Parking

1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
2. Parking is permitted outside of an enclosed structure in the side yard behind the line of the required front yard setback or in the rear yard.
3. Parking is permitted outside of an enclosed structure within the required front yard setback, subject to the following conditions:
 - (a) The parking space is provided on a paved, hard-surfaced or graveled driveway or paved pad adjacent to the driveway.
 - (b) The vehicle is parked perpendicular to the front curb.

(c) The vehicle does not encroach on public right-of-way.

c. Special Provisions for Recreational Vehicles, Trailers and Boats

Parking and storage of recreational vehicles, trailers, and boats is subject to the following additional conditions:

1. The vehicle is maintained in a clean, well-kept state.
2. If the vehicle is equipped with liquefied petroleum gas containers, such containers must meet the current standards of the Interstate Commerce Commission, the United States Department of transportation, or the American Society of Mechanical Engineers. Any valves must be closed at all times that the vehicle is not in preparation for immediate use. Leaks in containers must be repaired immediately.
3. A recreational vehicle may be used for temporary housing of non-paying guests for a maximum of three consecutive days, but the vehicle shall not be used for this purpose for more than fourteen days during any calendar year.
4. The vehicle may not be permanently connected to utility lines.
5. The vehicle may not be used for the storage of goods, materials, or equipment other than those items that pertain to the use of the vehicle.
6. The length of the vehicle shall not exceed twenty feet if the vehicle is parked or stored in a required front yard or street side yard. Longer vehicles may be parked or stored within rear yards or interior side yards behind the required front yard setback.

ARTICLE TEN: SIGN REGULATIONS

10.1 Purpose

The Sign Regulations provide standards for communicating information in the environment of the City of Pawnee City and its jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the city's attractive appearance; to provide for adequate business identification, advertising, and communication of information; and to encourage the fair enforcement of sign regulations.

10.2 Definition of Terms

The following definitions shall be used for terms contained in this chapter that are not otherwise defined in the Pawnee City Municipal Code or in this Zoning Ordinance.

Abandoned Sign: A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.

Attached Sign: A sign that is structurally connected to a building and/or depends upon that building for support

Awning and Awning Sign: A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An awning sign is a message printed on such a shelter.

Banner: Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.

Building Marker: An historic or commemorative plaque, or a building name or corner stone carved into a masonry surface.

Business Center Identification Sign: A sign, which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.

Canopy: A projecting non-movable structure cantilevered or suspended from a building, supported by the main structural members to which it is attached, and used only as a roof or fixed shelter.

Canopy Sign: A sign, which is attached or made an integral part of a canopy.

Clearance: The distance from the bottom of a sign face elevated above grade and the grade below.

Detached Sign: A sign, which is self-supporting and structurally independent from any building.

Directional Sign: A sign, which serves only to designate the location or direction of any area or place.

Double-Faced Sign: A sign consisting of no more than two parallel faces supported by a single structure.

Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court.

Ground Sign: A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than 3 feet.

Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.

Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.

Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.

Monument Sign: An on-premise freestanding sign with the appearance of a solid base. The width of such base shall be at least 75 percent of the width of the sign.

Moving Sign: A sign, which conveys its message through rotating, changing, animated elements or by electronic means.

Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.

Pole Sign: An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than 3 feet, and where the support encompasses less than 75% of the width of the sign.

Portable Sign: Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.

Premise Identification Sign: An sign which pertains to the use of a premises and which contains information about the owner or operator of that use; the type of business being conducted or the principal brand name of a commodity sold on the premises; and other information relative to the conduct of the use.

Premises: A tract of one or more lots or sites, which are contiguous, and under common ownership or control.

Projecting Signs: A sign other than a wall sign that is attached to and projects from a building face.

Residential Sign: A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.

Roof Sign: Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.

1. **Integral Roof Sign:** A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.

2. **Above-peak Roof Sign:** A roof sign positioned above the peak of a roof or above a parapet or cornice.

Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.

Sign Type: A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.

Street Facade: Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, private way, or court. Separate faces oriented in the same direction or within 45 degrees of one another are considered part of the same street facade.

Temporary Signs: A sign, flag, banner, pennant, or valance constructed of light weight materials which is not permanently attached to building or land, and which is intended for display for a limited period of time.

Wall Sign: A sign attached to and parallel with the side of a building.

Window Sign: A sign painted on or installed inside a window for the purpose of viewing from outside the premises.

10.3 General Sign and Street Graphics Regulations

a. Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the City of Pawnee City must comply with the provisions of this chapter and of other relevant provisions of the City of Pawnee City's Municipal Code.

b. Resolution of Conflicting Regulations

This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Pawnee City's Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.

c. Prohibited Signs

The following signs are prohibited in all zoning districts:

1. Signs painted on or attached to rocks, trees, or other natural objects. It is not the intent

of this ordinance to prohibit citizens from purchasing commercially available rock signs and displaying such signs in their yards in compliance with all provisions of this ordinance.

2. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.

3. Signs on public property, unless specifically authorized by the appropriate public agency.

4. Signs that create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.

5. Abandoned signs.

Any abandoned sign must be removed within six months of the date that the Planning Commission issues a finding stating that the sign is abandoned.

6. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers.

7. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.

8. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.

d. Exempt Signs

The following signs are permitted in any zoning district and are exempt from other provisions of this chapter.

1. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of 20 square feet and are not located in a required sign setback.

2. Real estate signs.

3. Official signs authorized by a government or governmental subdivision that give traffic, directional, or warning information.

4. Seasonal decorations for display on private or public property.

5. On-premise construction signs.

6. Temporary signs for grand openings or special events.

7. Works of graphic art painted or applied to building walls that contain no advertising or business identification messages.

8. Residential signs under 4 square feet in size.

9. Neighborhood or subdivision identification signs under 50 square feet.

10. Street numbers.

11. Signs which are not visible from a public right of way, private way, or court or from a property other than that on which the sign is installed.

e. Buffer Yards

No sign other than on-premise directional signs shall be placed within any buffer yard required by Article Eight, Landscaping and Screening Regulations, except buffer yards adjacent to intervening major streets.

f. Vision-Clearance Area

No sign may project into or be placed within a vision clearance area defined by a triangle with legs of forty feet from the point at which the curbs or edges of two intersecting streets, private ways, or courts or an intersecting street, private way, or court and driveway, meet

10.4 General Regulations: Basic Design Elements For On-premise Signs

a. Wall Signs and Graphics

Wall signs and graphics are subject to the following general regulations:

1. A wall sign shall not extend more than 30 inches from the wall to which it is attached.
2. A wall sign must be parallel to the wall to which it is attached.
3. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
4. A wall sign may not extend beyond its building's roofline.
5. A wall sign attached to a building on its front property line may encroach upon public right of way by no more than 18 inches. Such a wall sign shall provide minimum clearance of eight feet, six inches.
6. For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.
7. Where permitted, canopy signs are counted as wall signs when calculating total permitted sign area.

b. Projecting Signs and Graphics

Projecting signs and graphics are subject to the following general regulations:

1. The maximum projection of any projecting sign shall be as follows:
 - (a) 6 feet, 6 inch over public sidewalks less than 12 feet wide.

- (b) 8 feet over public sidewalks 12 feet wide or more, or over private property.
- 2. A projecting sign may be no closer than two feet from the vertical plane of the inside curb line.
- 3. Each projecting sign must maintain at least the following vertical clearances:
 - (a) 8 feet, 6 inches over sidewalks; except that a canopy may reduce its vertical clearance to 7 feet, 6 inches;
 - (b) 14 feet over parking lots.
 - (c) 18 feet over alleys or driveways.
- 4. No projecting sign extending three feet or more from a property line may be located within 22 feet of any other projecting sign extending three feet or more from a property line.
- 5. Projecting signs must minimize visible support structure and may not expose guy wires, cables, turnbuckles, angle iron, or other similar external support structure.

c. Pole Signs

Pole signs, where permitted, are subject to the following general regulations:

- 1. Each pole sign must maintain at least the following vertical clearances:
 - (a) 8 feet, 6 inches over sidewalks;
 - (b) 14 feet over parking lots.
 - (c) 18 feet over alleys or driveways.
- 2. Permitted pole signs may revolve at a rate not to exceed six revolutions per minute.

d. Roof Signs

Roof signs are subject to the following regulations:

- 1. Where permitted, integral roof signs may be used interchangeably with wall signs.
- 2. Integral roof signs may not exceed the permitted height for pole signs.
- 3. An integral roof sign must be mounted parallel to the wall of the building that it faces.

10.5 General Regulations: Other Design Elements

a. Illumination

Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.

b. Marquees and Marquee Signs

Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

c. Banners

- 1. A banner sign projecting from a building may not exceed the wall height of the building.

2. Maximum projection for any banner is five feet, with a minimum clearance of ten feet.
3. Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or 120 square feet.

d. Clocks

For the purposes of this chapter, clocks are not considered a moving sign.

Table 10-1: Permitted Signs by Type and Zoning District.

P: Permitted for All Uses. **PC:** Permitted for Civic Uses. **N:** Not Permitted.

| Sign Type | AG | RR | R-1 | R-2 | R-3 | MP | TC | GC | IN | Other Regulations |
|--------------------------------|----|----|-----|-----|-----|----|----|----|----|-------------------|
| Detached Sign | | | | | | | | | | |
| Residential | P | P | P | P | P | P | N | N | N | |
| Business Center Identification | P | P | PC | PC | P | P | P | P | P | |
| Incidental | PC | PC | PC | PC | P | PC | P | P | P | |
| Ground | P | P | P | P | P | P | P | P | P | |
| Pole | P | N | N | N | N | N | N | P | P | 10-4(c) |
| Attached Signs | | | | | | | | | | |
| Awning | N | N | N | N | P | P | P | P | P | |
| Banner | N | N | N | N | N | N | P | P | P | 10-5(c) |
| Building Marker | P | P | P | P | P | P | P | P | P | |
| Canopy | N | N | N | N | N | N | P | P | P | |
| Business Identification | P | PC | PC | PC | P | P | P | P | P | |
| Incidental | PC | PC | PC | PC | P | P | P | P | P | |
| Marquee | N | N | N | N | N | N | P | P | P | |
| Projecting | N | N | N | N | N | N | P | P | P | 10-4(b) |
| Roof, Integral | N | N | N | N | N | N | P | P | P | 10-4(d) |
| Roof, Above Peak | N | N | N | N | N | N | N | N | P | 10-4(d) |
| Wall | P | P | P | P | P | P | P | P | P | 10-4(a) |
| Window | N | N | N | N | N | N | P | P | P | |
| Miscellaneous | | | | | | | | | | |
| Flag | P | P | P | P | P | P | P | P | P | |
| Portable | N | N | N | N | N | N | N | N | N | 10-3©(6) |

TABLE 10-2: Maximum Permitted Sign Area for Zone Lot By Zoning District

The Maximum Permitted Area for all signs on a premises excluding incidental signs, building marker signs, and flags shall not exceed the lesser of the following:

| Zoning District | AG | RR R-1 R-2 | R-3 MP | TC | GC | IN | |
|---|--------|------------|--------|-----|---------------|-----|--|
| Square Feet of Signage per Linear Foot of Frontage | NA | NA | NA | 1.0 | 2.0 | 2.0 | |
| Maximum Total Square Feet. | Note 1 | Note 2 | Note 3 | 200 | 300 Note 5 | 400 | |

Note 1:

100 square feet for civic or commercial uses, 4 square feet for residential uses.

Note 2:

32 square feet for civic uses, 4 square feet for residential uses.

Note 3:

75 square feet for project identification signs for multi-family or mobile home developments and for civic uses, 4 square feet for other residential uses.

Note4:

Maximum limits apply to non-residential premises only. On premises with a primary residential use, 75 square feet for project identification signs for multi-family developments, 4 square feet for other residential uses.

Note 5:

One Business Center Identification Sign with a maximum area of 150 square feet is permitted subject to the regulations set forth by Table 10-3.

Table 10-3: Permitted Signs by Numbers, Dimensions, and Location

| Zoning District | AG | RR R-1 R-2 | R-3 MP | TC | GC (Note 1) | IN |
|------------------------------|------|------------------|-----------|------|-----------------|-----------|
| | | | | | | |
| Detached Signs | | | | | | |
| Number Permitted Per Premise | 1 | 1 | 1 | 1 | NA | NA |
| Per Feet Of Frontage | NA | NA | NA | NA | 1 per 200 | 1 per 200 |
| Maximum Size* (sq. ft.) | 100* | 32* | 75* | 100* | 150* | 200* |
| Maximum Height(feet) | 25 | 10 | 10 | 25 | 35 | 35 |
| Front Yard Setback(feet) | 10 | 10 | 10 | 0 | 5 | 0 |
| Attached Signs | | | | | | |
| Maximum Size* (sq. ft.) | 100 | 32 | 75 | 100 | 150 | 200 |
| % of Street Façade | NA | NA | NA | 20% | 25% | 25% |

- For those uses only permitted a sufficient maximum sign area in Table 10-2.

Note 1: In addition to its total permitted sign area, each premise used for a business center may have one detached center identification sign, subject to the following conditions:

1. The maximum area for a center identification sign shall be 150 square feet.
2. No center identification sign shall be within 300 feet of any other center identification sign or within 150 feet of any other detached sign on the same or adjacent premises.
3. The sign shall display no more than the name and location of the business center.
4. Each sign shall be subject to all other regulations for detached signs or graphics set forth in this Article.

10.6 Specific Regulations For Zoning Districts

This Section sets forth regulations and design standards for signs and graphics for each zoning district.

10.7 Measurement of Regulators

a. Maximum Permitted Sign Area

Maximum permitted sign area for a premises is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.

b. Sign Area

1. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.
2. The area of double-faced signs is calculated on the largest face only.
3. The sign area for ground signs, monument signs, and architectural sign bands are calculated as the area enclosing the extreme limits of the copy only.
4. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.

c. Height

The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.

d. Setback

The setback of a sign is measured from the property line to the supporting frame, mast, pole or base of the sign.

10.8 Permitted Sign Types by Zoning Districts

Table 10-1 sets forth the sign types permitted within each zoning district of the City of Pawnee City.

10.9 Maximum Permitted Sign Area

Table 10-2 sets forth the maximum sign area permitted within each zoning district of the City of Pawnee City.

10.10 Permitted Signs by Numbers, Dimensions, and Location

Table 10-3 sets forth the maximum permitted numbers of signs per premise; the maximum permitted dimensions of each sign; and the required setbacks for detached signs.

10.11 General Permit Procedures

a. Applicability

Any installation, modification, or expansion of any sign, which is not exempt from the provisions of this Article, shall be subject to the following permit procedure prior to installation.

b. Applications

All applications for sign permits shall be submitted to the Zoning Administrator in accordance with application specifications established by the Zoning Administrator.

c. Fees

Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council from time to time by resolution.

d. Action

Within seven workdays of the submission of a complete application for a sign permit, the Zoning Administrator shall either:

1. Issue the sign permit, if the sign conforms to the provisions of this Article.
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this Article.

e. Permit expiration

If a sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse.

f. Maintenance of Valid Sign Permit

The owner of a property containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding the fact that a particular zone lot may be included with other zone lots in a Common Signage Plan.

g. Assignment of Sign Permits

A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

10.12 Repair or Modification of Nonconforming Signs

a. Any nonconforming sign that presently is or becomes structurally damaged or deteriorated, or is altered by more than 50% of its replacement cost, shall be either removed or altered so as to comply with this Article.

b. For business centers pre-existing on the effective date of this Ordinance which do not conform to the total permitted sign area provisions of this Article, individual signs may be replaced, modified, or substituted prior to December 31, 2001. Each sign shall conform to the applicable regulations for individual signs and shall be installed so as to reduce the total amount of the nonconformance.

10.13 Discontinuance of Nonconforming Signs

Within any zoning district, all on-premise signage must comply fully with the provisions of this Ordinance, unless otherwise provided, by December 31, 2001.

ARTICLE ELEVEN: NONCONFORMING DEVELOPMENT

11.1 Purpose

Article Eleven shall be known as the Nonconforming Development Regulations. The purposes of these regulations are:

- a. To allow for reasonable use of legally created lots of record, which do not meet current minimum requirements for their respective zoning districts.
- b. To provide for reasonable use of legally constructed structures, which do not meet current site development regulations for their respective zoning districts.
- c. To allow for the reasonable continuation of legally established uses that do not meet current use regulations for their respective zoning districts.
- d. To limit the continuation and provide for the gradual replacement of nonconforming uses.

11.2 Regulations Additive

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

11.3 Nonconforming Lots

a. Preexisting Lots of Record

Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Ordinance.

b. Reductions Due to Public Acquisition

If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

11.4 Nonconforming Structures

These regulations apply to buildings and structures, which were constructed legally under regulations in effect before the effective date of this Ordinance.

a. Continuation

A lawful nonconforming structure existing on the effective date of this Ordinance may be continued, repaired, maintained, or altered, subject to the provisions of this Section.

b. Additions or Enlargements to Nonconforming Structures

1. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:

- (a) The enlargement or addition, when considered independently of the existing building complies with all applicable setback, height, off-street parking, and landscaping requirements.

(b) The nonconforming structure and impervious surface coverage on the site are not increased and the structure, after the enlargement or addition, conforms to height and off-street parking regulations applicable to its zoning district.

(c) The enlargement or addition projects no further into a required side yard setback than the existing building; the length of the side wall of the enlargement or addition is the smaller of 25 feet or 50 percent of the length of the existing nonconforming side wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district

2. No permitted addition to a nonconforming structure may place a wall within ten feet of a window of an adjacent pre-existing residential structure.

3. Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.

c. Moving of Nonconforming Structures

A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

d. Repair of Nonconforming Structures

A lawful nonconforming building or structure damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided there is no increase in the degree of nonconformity. Repair of fences shall also meet the requirements of Article 7, Section 7.4 g. Repair and reconstruction within the designated floodplain shall be in conformance with Article 5 of this ordinance.

e. Conversion of a Conforming Building

A conforming building shall not be changed in any way that will result in a nonconforming development.

f. Applicability of Landscaping and Screening Regulations

A pre-existing structure, building, or development shall be exempt from Article Eight, Landscaping and Screening Regulations. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this Ordinance shall be subject to Article Eight.

11.5 Nonconforming Uses

a. Continuation of Nonconforming Uses

Any nonconforming use lawfully existing on the effective date of this Ordinance may continue, subject to the limitations of this Section, and shall run with the property on which the nonconforming use existed.

b. Enlargement of Nonconforming Uses

A building or structure housing a lawful nonconforming use may not be added to or enlarged.

c. Abandonment of Nonconforming Use

If any structure or property used as for a lawful nonconforming use becomes vacant, unused or the use is discontinued for a continuous period of six months, any subsequent use must conform to all use regulations applicable to the property's zoning district.

d. Change of Use

A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal or less intensive than that normally required for the previous use.

e. Allowance for Repairs

Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

f. Damage or Destruction of Structures

Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

g. Nonconforming Uses and Conditional and Special Use Permits

A lawful pre-existing use which would require a Special Use Permit in its zoning district shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Article Twelve.

h. Nonconforming Uses Which Become Nuisances

Uses or adjuncts thereof, which are or become nuisances, shall not be entitled to continue as nonconforming uses.

ARTICLE TWELVE: ADMINISTRATION AND PROCEDURES

12.1 Purpose

The Administration and Procedures Provisions establish the methods for implementation of the Zoning Ordinance. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Ordinance; and granting variances.

12.2 Site Plan Review Procedure

a. Purpose

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Pawnee City Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

b. Administration

The Planning Commission shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Board of Adjustment.

c. Uses Requiring Site Plan Review

The following selected uses shall follow the Site Plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a Special Use Permit procedure for specific zoning districts.

1. Multiple family developments with 8 or more dwelling units.
2. Education, Public Assembly and Religious Assembly use type.
3. Automotive Washing
4. Automotive Sales
5. Any use including drive-in services.
6. Any commercial, industrial, or office building providing over 15,000 square feet in building area.
7. Any industrial use adjacent to a residential zoning district.
8. Any facility with a parking lot with more than 20 spaces.

d. Application Requirements

An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator. The application shall include the following information:

1. Name and address of the applicant.

2. Owner, address, and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. Sites plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - (a) The date, scale, north point, title, name of owner and name of person preparing the site plan.
 - (b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - (c) The location, sizes, and use of proposed and existing structures on the site.
 - (d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping and lighting.
 - (e) Location of any major site feature, including drainage and contours at no greater than five-foot intervals.
 - (f) Any other information that may be required for review by the Zoning Administrator.

e. Administrative Action and Appeal

The Planning Commission must act upon each complete application within fifteen working days of filing. An applicant may appeal a denial to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.

f. Review and Evaluation

1. The Planning Commission shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.
2. The Planning Commission shall make the following findings before approval of the site plan:
 - (a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12-1.
 - (b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
 - (c) The site plan conforms to the Zoning Ordinance.

g. Modification of Site Plan

The Planning Commission may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include,

but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, or welfare.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void two years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.
2. The Planning Commission may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 12-1.
3. The Planning Commission may revoke a Site Plan Approval if it is determined that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

i. Approval to Run with Land

An approval pursuant to this section shall run with the land until the expiration date of such approval.

12.3 Special Use Permit Procedure

a. Purpose

The Special Use Permit Procedure provides for public review and discretionary Planning Commission approval for uses within zoning districts, which have unusual site development, or operating characteristics that could adversely affect surrounding properties.

b. Administration

The Planning Commission, following proper notice, shall hold a public hearing on each Special Use Permit Application and, following such public hearing shall review, evaluate and act on each application.

c. Application Requirements

An application for a Special Use Permit may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, or other drawings, necessary to describe the proposed use to approving agencies.

d. Appeal Process

1. A denial by the Planning Commission may be appealed to the City Council by an applicant within ten days of the action. The appeal request must be submitted in writing to the Zoning Administrator.
2. An approval by the Planning Commission may be appealed to the City Council by the submittal of a valid protest petition, meeting the requirements set forth in Section 12.4 d 3 of these Regulations, within ten days of the action.
3. The City Clerk shall transmit the application and appeal documents, along with the record of the Planning Commission action, to the City Council.
4. The City Council, after publication and public hearing, shall act on the appeal.

e. Scope of Approval

The City Council may, at its discretion, apply a Special Use Permit to a specific owner or applicant. The City Council may establish special Site development or operational regulations as a condition for approval of a Special Use Permit.

f. Lapse and Revocation of Permit

1. A Special Use Permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.
2. The City Council may revoke a Special Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.
3. A Special Use Permit shall not become void upon change of ownership of the property, provided that the use of the property does not change.
4. The City Council may revoke a Special Use Permit if the Planning Commission finds and reports to the City Council that the property has been vacant for six (6) months.

g. Previously Approved Permits

Any use approved under regulations in effect before the effective date of this Ordinance shall be:

1. Considered to have a valid Special Use Permit, subject to requirements in effect at the time of its approval,
2. Allowed to expand, subject to requirements in effect at the time of expansion, provided the expansion is immediately contiguous with existing facilities.

TABLE 12-1: CRITERIA FOR SITE PLAN REVIEW AND SPECIAL USE PERMITS

| | CRITERIA | APPLICATION TO | |
|----------------------------------|---|------------------|--------------------|
| | | Site Plan Review | Special use Permit |
| Land Use Compatibility | | | |
| Development Density | Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features. | | X |
| Height and Scale | | | |
| Height and Bulk | Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations. | X | X |
| Setbacks | Development Should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics. | X | X |
| Building Coverage | Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities. | X | X |
| Site Development | | | |
| Frontage | Project frontage along a street should be similar to lot width. | X | X |
| Parking and Internal Circulation | Parking should serve all structures with minimal conflicts between pedestrians and vehicles. | X | X |
| | All structures must be accessible to public safety vehicles | X | X |
| | Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points | X | X |
| Landscaping | Landscaping should be integral to the development, providing street landscaping breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved. | X | X |
| Building Design | Architectural design and building materials should be compatible with surrounding areas or highly visible locations. | | X |

| TABLE 12-1 continued | | | |
|----------------------------------|--|-------------------------|---------------------------|
| | .CRITERIA | Site Plan Review | Special Use Permit |
| Operating Characteristics | | | |
| Traffic Capacity | Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations. | X | X |
| External Traffic Effects | Project design should direct non-residential traffic away from residential areas | X | X |
| Operating Hours | Projects with long operating hours must minimize effects on surrounding residential areas. | X | X |
| Outside Storage | Outside storage must be screened from surrounding streets and less intensive land uses. | X | X |
| Public Facilities | | | |
| Sanitary Waste Disposal | Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare. | X | X |
| Storm Water Management | Development should not inhibit development of other properties. | X | X |
| | Development should handle storm water adequately to prevent overloading of the public storm water management system. | X | X |
| | Development should not increase probability of erosion, flooding, landslides, or other run off related effects. | X | X |
| Utilities | Project must be served by utilities. | X | X |
| Comprehensive Plan | Projects should be consistent with the comprehensive development plan of Pawnee City. | | X |

12.4 Amendment Procedure

a. Purpose

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and or the official boundaries of zoning districts (rezoning).

b. Initiation of Amendments

1. The Planning Commission or City Council may initiate text amendments.

2. A property owner or authorized agent; the Planning Commission; or the City Council may initiate rezoning.

c. Rezoning Application Requirements

An application for a rezoning may be filed with the Zoning Administrator. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, or other drawings, necessary to describe the proposed use to approving agencies.

d. Amendment Process

1. The Planning Commission, following ten days notice and publication, shall hold a public hearing on each proposed Zoning Ordinance text change or zoning change (rezoning) and, following such public hearing, shall recommend action to the City Council. A vote for a change in text or zoning by a majority of all regular Planning Commission members shall constitute a recommendation of approval to the City Council. A vote against a change in text or zoning by a majority of all regular Planning Commission members shall constitute a recommendation of denial to the City Council.”

2. The City Council, after publication and public hearing, shall act on the proposed amendment. On applications, which receive a recommendation of approval from the Planning Commission, a majority vote of those members either elected or appointed to the City Council is required for approval. On applications, which receive a recommendation of denial from the Planning Commission, a majority vote plus one of those members either elected or appointed to the City Council is required for approval.

3. Protest: If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners, pursuant to Section 19-905 R.R.S. 1943 (Reissue 1991), a majority vote plus one of those members either elected or appointed to the City Council is required for approval. A valid protest petition must meet the following criteria:

(a) Submission of the petition in the office of the City Clerk within fourteen (14) days after the conclusion of the public hearing on the amendment by the Planning Commission.

(b) Notarized signatures by at least one of the following:

(i) The owner or owners of at least 20% of the property proposed for rezoning.

(ii) The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the city and within 300 feet of the proposed rezoning.

e. Required Notice and Publication

Prior to consideration of amending, supplementing, changing, modifying, or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:

1. Notice: A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

2. Publication: At least ten days before the date of hearing the City Clerk shall have published in a daily newspaper having a general circulation in the City of Pawnee City a Notice of the time, place and subject matter of such hearing.

3. Notification by Mail: At least ten days prior to the date of hearing, the party initiating the rezoning request shall present the City Clerk a certified address list of those persons who own property within 300 feet of the subject site. The City Clerk shall mail notice of the time, place and subject matter of the hearing to such property owners at least ten days prior to the date of the of the hearing.

4. Notification By Mail of School District: The City Clerk shall mail notice of the time, place and subject matter of any Planning Commission rezoning hearings to the School District Administrative Official and/or Chair of the Board of Education, within whose boundaries the subject site is located. The notification shall be submitted to the applicable official and/or Board of Education at least ten days prior to the date of such meeting. Each school district to be affected by such rezoning proposal shall be notified.

12.5 Extension of the Extra-Territorial Jurisdiction

Upon the automatic extension of the one-mile Extra-Territorial Jurisdiction due to annexation, the City Council with the recommendation of the Planning Commission shall zone properties within the newly established Jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Pawnee City and the present use of the land.

12.6 Building Permits and Certificates of Zoning Compliance

a. Administration and Enforcement.

The Zoning Administrator shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or dimensional changes; discontinuance of any ille-

gal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

b. Building Permits Required

No building or other structure, or any fence or porch shall be erected, moved, added to, or dimensionally altered without a building permit issued by the Zoning Administrator. All applications for a building permit shall be reviewed by the Zoning Administrator and by the Chairperson of the Planning Commission or another member of the Planning Commission designated by the Chairperson. A building permit shall be issued only after a finding that the application conforms to this Zoning ordinance. The Zoning Administrator and the Chairperson of the Planning Commission shall both sign the building permit.

c. Application for Building Permit

1. All applications for building permits shall include one set of plans, if applicable, drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.

2. The original plan document and one copy of the building permit application shall be retained the Zoning Administrator, after he/she has marked such copy either as approved or disapproved and attested to it by his/her signature on such copy. The Zoning Administrator shall return a copy of the building permit application, similarly marked, to the applicant.

d. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance has been issued. The Zoning Administrator and Planning Commission Chairperson shall both sign the certificate of zoning compliance, after a finding that the proposed use of the building or premises, or both, conforms to the requirements of this zoning ordinance. A denial of a certificate of zoning compliance may be appealed to the Planning Commission.

e. Expiration of Building Permit

1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; the Zoning Administrator shall cancel it; and written notice thereof shall be given to the persons affected.

2. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

3. The expiration date of a building permit may be established for the City issues a period longer than two years if established at the time that such permit. The Zoning Administrator may, at his/her discretion extend the expiration period of the building permit.

f. Construction and Use to be as Provided in Applications, Plans, Permits, And Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator and Chairperson of the Planning Commission authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by Section 12.14 of this zoning ordinance.

12.7 Schedule of Fees, Charges and Expenses

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.

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.

12.8 Board of Adjustment

a. Establishment

1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of five regular members, plus one additional alternate member who shall attend and vote only when one member is unable to attend for any reason.

2. Each member shall be appointed by the Mayor with the approval of the City Council for a three-year term and is removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for any member whose seat on the Board becomes vacant. One member of the Board shall be appointed from the Planning Commission, and the loss of membership on the Commission by such member shall also result in his/her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board.

3. The Board of Adjustment shall adopt rules and regulations in accordance with these regulations and the laws of the State of Nebraska pursuant to Sections 19-901 to 19-914 of Nebraska State Statutes. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The Board shall keep minutes of its proceedings,

showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A majority of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment through the office of the Zoning Administrator in written form as determined by the Zoning Administrator. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Zoning Administrator certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.

2. The Board shall provide a minimum of ten days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; by publication in a newspaper of general circulation in the City of Pawnee City; and by written notice to the appealing party.

3. Upon the public hearing, any party may appear in person or by agent or attorney. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such regulations.

12.9 Powers and Duties of the Board of Adjustment

The Board of Adjustment shall have the following powers and duties:

a. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Zoning Administrator in the enforcement of this Ordinance.

b. Interpretation of the Zoning Map. To hear and decide written request for an interpretation of the Zoning Map.

c. Variances: Conditions Governing Applications: Procedures

To authorize, upon appeal, in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest. A variance from the strict application of this Ordinance may be considered where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship or peculiar and exceptional difficulties upon the owner of the property. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
 - (a) That strict application of the zoning ordinance will produce undue hardship or peculiar and exceptional difficulties on the owner of the property.

(b) That such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.

(c) That 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 such variance will not be contrary to the public interest.

(d) That granting the variance requested is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(e) That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(f) In exercising this variance authority, the Board must comply with the concurring vote of a minimum of four members of the board requirement to authorize a variance.

2. Notice of public hearing shall be given as in Section 12-8 (b)(2) above.

3. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

4. The Board of Adjustment shall make a written finding that the applicant for a variance has made satisfactory provisions and arrangements concerning the following, where applicable:

(a) Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(b) Off street parking and loading areas where required, with particular attention to the economic, noise, glare, or odor effects on adjoining properties and properties generally in the district;

(c) Refuse and service areas;

(d) Location of utilities, which may inhibit use of the property or may affect neighboring properties;

(e) Screening and buffering with reference to type, dimensions and character;

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

(g) Required yards and other open spaces;

(h) General compatibility with adjacent properties and other property in the district.

5. The Board of Adjustment shall further make a written finding that the reasons set forth in the application justify the granting of the variance, and that the variance will make possible the reasonable use of the land, building, or structure;

6. The Board of Adjustment shall further make a written finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

d. Conditions for Grant of Variance

1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 12-14 of this ordinance.

2. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

3. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

e. Board has Powers of Zoning Administrator on Appeals: Reversing Decisions of

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

12.10 Appeals from the Board of Adjustment

Any person or persons, or any board, taxpayer, department, board or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1977), and amendments thereto.

12.11 Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal

a. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.

b. Under this ordinance the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments or permits, or the repeal of this ordinance as provided by law, and (2) of establishing a schedule of fees and charges as stated in Section 12 of this ordinance.

12.12 Severability Clause

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

12.13 Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints 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 this ordinance.

12.14 Penalties for Violation

a. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

b. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

c. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.