

**Tentative** Agenda for the WAVERLY PLANNING COMMISSION MEETING to be held on July 29, 2024 at 6:00 PM. This meeting will be held at the Waverly City Office Building, 14130 Lancashire, Waverly, NE 68462. A current Agenda shall be readily available for public inspection at the office of the City Clerk during normal business hours.

1. **Call to Order**
  - 1.a) Roll Call
  - 1.b) Acknowledgement of the "Open Meetings Act" poster that is posted by the south entrance
2. **Approval of Minutes**
  - 2.a) Minutes of the June 24, 2024 Planning Commission Meeting
3. **Public Hearings**
4. **Introduction of Business**
  - 4.a) Discussion of proposed amendments to the Waverly Zoning Regulations.
  - 4.b) Administrative Report
5. **Adjournment**

The Governing Body reserves the right to go into Executive Session at any time for the reasons outlined in State Statute 84-1410.

The following rules are established for audience members and participants at a Council meeting:

- (1) Any person wishing to address the Council shall first state their name and address.
- (2) Public comments are for non-agenda items only.
- (3) Remarks shall be limited to five (5) minutes.

Minutes of the **Waverly Planning Commission held Monday, June 24th, 2024**, at 6:00 pm at the Waverly City Office Meeting Hall, 14130 Lancashire St, Waverly, Nebraska. Commissioners present were Chair Kris Bohac, Allison Stark, Tyson Ritz and Tony Larson. Absent were Heather Chloupek, Lindsay Erickson and Melissa Brown. City Officials present were Building Inspector/Zoning Administrator Mike Palm. Notice of the meeting and agenda were given to the Chair and all Members of the Planning Commission prior to the meeting. Notice of the meeting was posted at Russ's Market Express, the US Post Office, the City Office, and the City website.

### **Call to Order**

The meeting was called to order by Chair Bohac at 6:24pm.

Bohac acknowledged the Open Meeting Act poster which is posted on the south wall by the meeting hall entrance doors.

### **Approval of Minutes of the May 20, 2024, Planning Commission Meeting**

Stark moved to approve the May 20, 2024 meeting minutes. Larson seconded the motion.

The following Commission Members voted "YEA": Bohac, Stark, Ritz, and Larson. The following Commission Members voted "NAY": None. Motion carried. 4 – 0.

### **Public Hearings**

Bohac stated Public Hearings: None

### **Introduction of Business**

#### **Recommendation to approve proposed Anderson North Park 10<sup>th</sup> Addition Final Plat**

Stark moved to postpone to a later date the approval of the proposed Anderson North Park 10<sup>th</sup> Addition Final Plat. Ritz seconded the motion.

The following Commission Members voted "YEA": Bohac, Stark, Ritz, and Larson. The following Commission Members voted "NAY": None. Motion carried. 4 – 0.

#### **Recommendation of Annexation of Proposed Anderson North Park 10<sup>th</sup> Addition**

Ritz moved to postpone to a later date the recommendation of annexation of the proposed Anderson North Park 10<sup>th</sup> Addition. Stark seconded the motion.

The following Commission Members voted "YEA": Bohac, Stark, Ritz, and Larson. The following Commission Members voted "NAY": None. Motion carried. 4 – 0.

#### **Recommendation to approve proposed Zoning Regulation Amendments: Article 5 Special Overlay Districts, FP Salt Creek Valley Floodplain/Floodway Overlay District**

Ritz moved to approve the proposed Zoning Regulation Amendments: Article 5 Special Overlay Districts, FP Salt Creek Valley Floodplain/Floodway Overlay District. Stark seconded the motion.

Zoning Administrator Palm provided commentary for and answered questions from the commission regarding the proposed zoning amendments.

The following Commission Members voted "YEA": Bohac, Stark, Ritz, and Larson. The following Commission Members voted "NAY": None. Motion carried. 4 – 0.

#### **Administrative Report given by Building Inspector/Zoning Administrator Mike Palm**

- 1 Residential Permit issued since 5/20/2024, Anderson North Park 9<sup>th</sup> Addition

- 4 Open Commercial Permit (Kamterter Storage (2), Kamterter Remodel, Capital Tower Addition)
- Waverly Ridge Estates:
  - Preliminary Plat approved
  - Zoning Change approved
  - Floodplain Development permit issued
  - Mass Grading in progress
  - Existing ag buildings demolished
  - Final Plat tentatively for July/August Planning Commission Agenda
- Anderson North Park 10<sup>th</sup> Addition Plat tentatively on July Planning Commission Agenda
  - Saint Ronan ditch crossing and 148<sup>th</sup> St. intersection still in design phase
  - Developer exploring alternative access point from Woodstock (East of Empire Fence)

### **Adjournment**

Stark moved to adjourn the meeting. Larson seconded the motion.

The following Commission Members voted “YEA”: Bohac, Stark, Ritz, and Larson. The following Commission Members voted “NAY”: None. Motion carried. 4 – 0.

Meeting adjourned at 6:37pm.

Respectfully submitted,  
Tony Larson, Waverly Planning Commission, Secretary

## DEFINITIONS

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## ARTICLE TWO

### DEFINITIONS

#### 11.201 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.

#### 11.202 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, or intent of any provision of the Zoning Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of the 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.

## DEFINITIONS

### f. Referenced Agencies

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

### 11.203 Definition 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 meaning or meanings implied by their context shall apply.

### 11.204 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 detached structure within a residentially zoned district used as a garage, tool shed, hobby shop, green house, or playhouse. (*Amended by Ord. 04-02, 4-19-04*)
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. **Agricultural Farm or Operation:** A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least twenty (20) acres and which produces one thousand dollars (\$1,000) or more of farm products each year. (*Amended by Ord 13-11; 9-17-13*)
6. **Agent of Owner:** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
7. **Alley:** A public right of way, other than a street and twenty feet or less in width which is used as a secondary means of access to abutting property.
8. **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.
9. **Apartment:** A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
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.

### 11.205 B

1. **Base Zoning District:** A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.

## DEFINITIONS

2. **Basement:** A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
3. **Beginning of Construction:** The initial incorporation of labor and materials within the foundation of a building or structure.
4. **Block:** An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.
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 Waverly.
6. **Board of Adjustment:** A body, established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.
7. **Bufferyard:** A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another, to screen parking areas or outside storage areas from public view. *(Amended by Ord 13-11; 9-17-13)*
8. **Building:** A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons, animals, processing, equipment, goods or materials of any kind, or property. *(Amended by Ord 13-11; 9-17-13)*
9. **Building Coverage:** The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features. Maximum Building Coverage is the total area of principal and accessory permitted buildings as a percentage of the total area of the individual parcel. *(Amended by Ord 13-11; 9-17-13)*
10. **Building Envelope:** The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.
11. **Building Line:** The outer boundary of a building established by the location of its exterior walls.
12. **Building Official:** The city official who is responsible for the enforcement of the applicable building code and conditional uses.
13. **Building Permit:** A document that must be issued by the Building Official prior to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure regulated by this Ordinance or by the applicable building codes of the City of Waverly. Issuance of a building permit follows review of plans by the Building Official to determine that the proposed use of building or land complies with the provisions of the Zoning Ordinance.
14. **Business:** Activities that include the exchange or manufacture of goods or services on a site.
15. **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.

## DEFINITIONS

### 11.206 C

1. Certificate of Occupancy: An official certificate issued by the Building Official or his/her designee prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Zoning Ordinance.
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. City: The City of Waverly, Nebraska.
5. City Council: The City Council of Waverly, Nebraska.
6. Common Area: An area held, designed, and designated for common or cooperative use within a development.
7. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.
8. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.
9. 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.
10. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Waverly.
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. Conservation Development: 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.
13. Conservation Subdivision: Wholly or in majority, a 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.
14. County: Lancaster County, Nebraska.

## DEFINITIONS

15. Court (or Lane): 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.

16. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.

17. Conventional Subdivision: A subdivision which literally meets all nominal standards of the Land Development Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.

18. Creative Subdivision: A subdivision which, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Conservation Subdivisions and Traditional Neighborhood Districts.

### 11.207 D

1. Deck: An addition to a house that is neither roofed nor sided and is not a structural element of the house.

2. Density: The amount of development per specific unit of a site.

3. Drive-in Services: Uses which involve the sale of products or provision of services to occupants in vehicles.

4. 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.

5. Driveway: A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.

6. Duplex: A building, typically on a single lot of record, containing two (2) single family dwelling units, each separated from one another by an un-pierced wall extending from ground level to roof. *(Amended by Ord 13-11; 9-17-13)*

7. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

### 11.208 E

1. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.

2. Enclosed: A roofed or covered space fully surrounded by walls.

## DEFINITIONS

### 11.209 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 ordinance: *(Updated by Ord. 04-02, 4-19-04)*
  - (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. Fascia: A parapet-type wall used as part of the facade of a flat-roofed building and projecting no more than six feet from the immediately adjacent building face. Such a wall shall enclose at least three sides of the projecting flat roof and return to the parapet wall or the building. *(Updated by Ord. 04-02, 4-19-04)*
3. Federal: Pertaining to the Government of the United States of America. *(Updated by Ord. 04-02, 4-19-04)*
4. Fence: A form of construction, not ordinarily considered a structure, that is designed for screening or enclosing a property. *(Updated by Ord. 04-02, 4-19-04)*
5. Floor Area Ratio: The quotient of gross floor area divided by gross site area. *(Updated by Ord. 04-02, 4-19-04)*
6. Footprint: The total square footage of the exterior walls of a principal residence excluding the garage. *(Established by Ord. 04-02, 4-19-04)*
7. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court. *(Updated by Ord. 04-02, 4-19-04)*

### 11.210 G

1. Grade: The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.
  - (a) For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
  - (b) For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
  - (c) For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

## DEFINITIONS

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.

### 11.211 H

1. Hard-Surfacing: Surfacing of a site or portion of a site with a material which is generally dust-free and impervious to surface moisture. Typical materials include concrete, asphalt, asphaltic concrete, unit pavers, brick, and similar materials.
2. 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 the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.
3. Home Based Business/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.
4. 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.

### 11.212 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.

### 11.213 J

### 11.214 K

### 11.215 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, ground cover, 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.

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3. Lot: A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Lancaster County Register of Deeds. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Creative Subdivision.

(a) Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

(b) Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)

(c) Interior Lot: A lot other than a corner lot.

(d) Common Development Lot: When two or more contiguous lots are developed as part of a Planned Unit Development, these lots may be considered a single lot for purposes of this ordinance.

4. Lot Area: The total horizontal area within the lot lines of a lot.

5. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

6. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.

(a) Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.

1) For an interior lot, the lot line separating the lot from the right-of-way or easement.

2) For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.

3) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original building permit for the lot, or as may be noted on the final plat.

(b) Rear Lot Line: The lot line which is opposite and most distant from the front 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 measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

## DEFINITIONS

### 11.216 M

1. **Manufactured Home Dwelling:** A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles; bears a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the US Department of Housing and Urban Development; and which complies with the following architectural and aesthetic standards:

- (a) The home shall have at least 900 square feet of floor area;
- (b) The home shall have an exterior width of at least 18 feet;
- (c) The roof shall be pitched with a maximum vertical rise of 2.5 inches for each 12 inches of horizontal run.
- (d) The exterior material is of a color, material, and scale comparable with those existing in the residential site on which the manufactured home dwelling is being permanently installed;
- (e) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (f) Permanent utility connections shall be installed in accordance with local regulations;
- (g) The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and
- (h) The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.

2. **Mixed Use Building:** A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

3. **Mixed Use Development:** A single development which incorporates complementary land use types into a single development.

4. **Mobile Home:** 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 and Human Services System or conformance to the manufactured home procedural and enforcement regulations, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings. *(Amended by Ord 13-11; 9-17-13)*

5. **Mobile Home Park:** A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

## DEFINITIONS

6. Mobile Home Subdivision: A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage.

### 11.217 N

1. 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 energy 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. *(Amended by Ord 13-11; 9-17-13)*

2. 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.

3. 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 present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

4. Nonconforming Sign: A sign that was legally erected 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 present requirements of the zoning ordinance.

5. 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 present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.

6. Nonconforming Use: A land use 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 present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.

7. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

### 11.218 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 three days.

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.

## DEFINITIONS

4. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

### 11.219 P

1. 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. Vehicle storage is distinct from parking, and is regulated by provisions in Sections 307b, 308, 309j, Table 4-2. Vehicle storage is also governed by provisions of Article 9: Parking Regulations.
2. 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 townhome residential uses shall be considered to have a means of access to a public street.
3. Paved: Permanently surfaced with poured concrete, concrete pavers, brick or other masonry material, asphalt, or asphaltic concrete.
4. Permanent Foundation: An exterior wall and necessary structure designed to support any building or structure for the useful life of such structure. The exterior wall of a permanent foundation shall conform to the requirements of the Uniform Building Code.
5. 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.
6. Planning Commission: The Planning Commission of the City of Waverly.
7. 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.
8. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.
9. Portable Storage Unit: Any container designed for the storage of personal property which is typically rented to owners or occupants of residential (single family or multi-family) property for their temporary use and which is delivered and removed by truck. *(Established by Ord. 08-10,8-4-08)*
10. Premises: A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
11. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.
12. Property Line: See "Lot Line."

### 11.220 Q

## DEFINITIONS

### 11.221 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.
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.
4. Roll-off unit: A metal storage receptacle used primarily for the temporary storage or deposit or waste materials, including debris, trash, or construction renovation or demolition waste, and which is transportable such as to be delivered by, rolled off of and picked up by a carrying vehicle that allows for the removal of its contents to a dump site. (*Established by Ord. 08-10,8-4-08*)

### 11.222 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 the landscape provisions of this ordinance.
2. Setback: The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
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; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
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; and any other information that may be reasonably requested by the City in order that an informed decision can be made on the associated request.
6. Special Use Permit: The special permit provides permission under specific conditions to authorize special uses of land in a zoning district as stipulated under permitted special uses in each of the district zoning regulations. Special exception uses are allowed in a zoning district only at the discretion of and with the explicit approval of the Planning Commission. The procedure to obtain a Special Use Permit is further detailed in Section 11.1203 of this Ordinance. (*Amended by Ord 13-11; 9-17-13*)
7. State: The State of Nebraska.
8. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.

## DEFINITIONS

9. Street: A right of way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Nebraska State Statute.
10. Collector Street: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
11. Street, Intersecting and Principal: In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; the intersecting street shall be a street other than a principal street.
12. Street, Local: A street which is used primarily for access to the abutting properties.
13. Street, Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan.
14. Structure: Any object constructed or built and attached or anchored permanently or semi-permanently to the ground in such a way as to prevent routine movement.
15. Swimming Pool: Any structure intended for swimming or recreational bathing that contains water more than 24 inches (24") deep. This includes in-ground, above ground, and on-ground swimming pools, hot tubs, and spas.

### 11.223 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 at least two and not more than four contiguous townhouses with common or abutting walls.

### 11.224 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.

### 11.225 V

### 11.226 W

### 11.227 X

### 11.228 Y

## DEFINITIONS

1. Yard; Required: That portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.

(a) Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:

- 1) The yard along the block face to which a greater number of structures are oriented; or
- 2) The yard along a street that has the smaller horizontal dimension.

(b) Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.

(c) Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

(d) Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.

### 11.229 Z

1. Zoning Administrator: The designee of the City Council responsible for the interpretation, administration, and enforcement of the Waverly Zoning Ordinance.

2. 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.

# 3

## ARTICLE THREE

### USE TYPES

#### 11.301 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 specially 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. *(Amended by Ord 13-11; 9-17-13)*

#### 11.302 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 Waverly shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment 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.

#### 11.303 Agricultural Use Types

Agricultural use types include the on-site production and sale 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 for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

##### c. Animal Production

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.

## USE TYPES

### d. Commercial Feedlots

The use of a site for the confined feeding or holding of livestock or poultry within buildings, lots, pens, or other close quarters, which are not used for crop production or where grazing of natural vegetation is not the major feed source. Livestock and poultry shall include any animal or fowl which are used primarily for use as food or food products for human consumption, or for laboratory or testing purposes. A Commercial Feedlot does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

### e. Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

## 11.304 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. Mobile home units are not a single-family use type. See below categories for such units.

1. Single-Family Residential: A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit. *(Amended by Ord 13-11; 9-17-13)*

### b. Townhouse Residential

The use of a site for two or more attached dwelling units, each unit with its own lot, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings with its own front and rear access to the outside, and neither above or below any other dwelling unit. Each townhouse unit must have at least two exposed exterior walls. *(Amended by Ord 13-11; 9-17-13)*

### c. Duplex Residential

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

### d. Multiple-Family Residential

The use of a site for three or more dwelling units within one building not otherwise defined as townhouse units.

### e. Downtown Residential

The use of upper levels above street level of a building within the Central Business District of the City of Waverly for single- or multiple-family residential uses.

### f. Group Residential

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

## USE TYPES

g. Manufactured Home Residential

Use of a site for one or more manufactured home dwellings, as defined in Section 11.216.

h. Mobile Home Park

Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

i. Mobile Home Subdivision

Division of a tract of land into lots that meet all the requirements of the City of Waverly's subdivision ordinance for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.

j. Retirement Residence

A building or group of buildings which provide residential facilities for more than four residents who are retirees or elderly persons, or households headed by a retiree or elderly person. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care. (*Amended by Ord 13-11; 9-17-13*)

### 11.305 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 contact 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, nonprofit or noncommercial association, primarily for use by members and guests.

1. Clubs (Recreational): Clubs which provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs and private or nonprofit community or recreation centers.

## USE TYPES

2. Clubs (Social): Clubs which provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.

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 inpatient 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. Typical uses include nursing homes.

f. Cultural Services

A library, museum, or similar registered nonprofit 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)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than eight (8) children. Day care services in a residence providing care to four (4), but no more than eight (8) children are also included in this classification. These facilities are regulated by the Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002. 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.  
*(Amended by Ord 13-11; 9-17-13)*

h. Day Care Services (General)

This Use Type includes all classifications of day care facilities providing care for more than eight (8) children. These facilities are regulated by the State of Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002. 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.  
*(Amended by Ord 13-11; 9-17-13)*

## USE TYPES

### i. Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

### j. Emergency Residential Services

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

### k. Group Care Facility

A government-licensed or approved facility which provides for resident care and short or long-term, continuous multi-day occupancy of more than 8 but no more than 30 unrelated persons, not including resident staff. Group Care Facilities include facilities which provide services in accordance with individual needs 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 developmental disabilities.
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.
5. Others who require direct adult supervision.

### l. Group Home

A facility licensed by the State of Nebraska in which at least three 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, living assistance, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation, or other disability similarly specified under Nebraska State Statute.

### m. 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.

### m. Health Care

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.

## USE TYPES

o. 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.

p. Maintenance Facilities

A public facility 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.

q. Park and Recreation Services

Publicly owned and operated parks, playgrounds, recreation facilities including publicly-owned community centers, and open spaces.

r. Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

s. 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.

t. Public Assembly

Facilities owned and operated by a public agency or a charitable nonprofit 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.

u. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (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 Property Tax Code of the State of Nebraska shall constitute prima facie evidence of religious assembly use.

v. Safety Services

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

w. 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.

## USE TYPES

### x. Utilities

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.

### 11.306 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. Corporate Offices

Use of a site for administrative, processing, or research offices, which generally does not provide service to clientele from Waverly and the surrounding region. Corporate offices are destinations for commuters drawn from a relatively wide region around Waverly, as well as from the community itself. Typical uses include corporate headquarters offices, telemarketing, or information processing offices.

#### b. General Offices

Use of a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

#### c. Financial Services

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on site by an office of a primary financial institution is considered within the Personal Services Use Type.

#### d. Medical Offices

Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.

### 11.307 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.

## USE TYPES

### 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, noncommercial 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. **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.

### c. Bed and Breakfast

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision 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 resident manager of the structure, include no more than eight units, and accommodate each guest or visitor for no more than 7 consecutive days during any one month period.

### 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. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, messenger and delivery services, custodial or maintenance services, and convenience printing and copying.

## USE TYPES

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

Facilities 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 7 consecutive days during any one month period.

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 other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, billiard or bowling centers, game arcades, 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. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

j. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of 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, 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.

## USE TYPES

m. Firework Sales (Amended by Ord. 02-07, 3/4/02)

Establishments or places of business engaged in the retail sale of fireworks. Approved fireworks shall consist of sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers not to exceed seven-eighths inch (7/8") in length or one-eighth inch (1/8") in diameter with total pyrotechnic composition not to exceed one-half gram (1/2 g) each in weight, color wheels, and any other fireworks approved under the provisions of Section 7-504.

n. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food Sales establishments may include the sale of non-food items. However, the sales of non-food items may account for no more than the lesser of 25% of the sales area or 10,000 square feet of the Food Sales establishment. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.
2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.
3. General Food Sales: Establishments selling a wide variety of food commodities and related items, using facilities larger than 10,000 but less than 40,000 square feet.

Typical uses include grocery stores and locker plants.

4. Supermarkets: Establishments selling a wide variety of food commodities, related items, and often providing a variety of non-food goods and services, using facilities larger than 40,000 square feet. Typical uses include large grocery stores.

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. 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; pet motels, or dog training centers.

p. 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.

## USE TYPES

q. 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.

r. Lodging

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts or Short-Term Rentals. Typical uses include hotels, apartment hotels, and motels. Lodging may provide additional services, such as restaurant establishments, meeting rooms, entertainment, or recreational opportunities.

s. Personal Improvement Services

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools, health or physical fitness studios, music schools, reducing salons, dance studios, handicraft and hobby instruction.

t. 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; television or electronics repair; or dry cleaning stations serving individuals and households. Personal Services include establishments providing for the administration of massage or massage therapy carried out by persons licensed by the State of Nebraska when performing massage services as a part of the profession or trade for which licensed or persons performing massage services under the direction of a person so licensed; or persons performing massage services or therapy pursuant to the written direction of a licensed physician.

u. 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.

v. 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.

w. 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 establishment's gross income.

1. Restaurant (Drive-in or Fast Food): An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and onsite accommodations, self-service, and short stays by customers.

## USE TYPES

2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

x. Restricted Businesses (*Amended by Ord. 00-10, 1/15/01*)

Any business activity which as a substantial or significant portion of its business features or provides the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Waverly, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political or scientific value. This category includes, but is not limited to, the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; business which offer live performances characterized by exposure of anatomical areas in a manner intended to have sexual or erotic impact on the view; and adult theaters.

y. 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, photograph 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). General Retail Services include:

1. Limited Retail Services: Establishments providing retail services, occupying facilities of 3,000 square feet or less. Typical establishments provide for specialty retailing or retailing oriented to Waverly and its surrounding vicinity.
2. Medium Retail Services: Establishments providing retail services, occupying facilities between 3,001 and 10,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Waverly and its surrounding vicinity.
3. Large Retail Services: Establishments providing retail services, occupying facilities between 10,001 and 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Waverly and its surrounding vicinity.
4. Mass Retail Services: Establishments providing retail services, occupying facilities over 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Waverly and the surrounding region.

## USE TYPES

z. Short-Term Rental

The rental of all or a portion of a residential dwelling for accommodations for a length of stay per guest visit of no more than 30 consecutive days. Short term rental does not include rental of a dwelling unit for meetings including, but not limited to, luncheons, banquets, parties, weddings, fund raisers, or other similar gatherings for direct or indirect compensation. They do not include accessory uses associated with lodging such as restaurant establishments, meeting rooms, or recreational facilities.

aa Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

aabb. Surplus Sales

Businesses engaged in the sale, including sale by auction, of used items or new items which are primarily composed of factory surplus or discontinued items. Surplus sales uses sometimes include regular outdoor display of merchandise. Typical uses include flea markets, auction houses, factory outlets, or merchandise liquidators.

bbcc. Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

eedd. Vehicle Storage (Short-term)

Short-term storage of operating or nonoperating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

edee. Veterinary Services

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

### 11.308 Parking Use Types

a. Off-Street Parking

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

b. Parking Structure

The use of a site for a multilevel building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

## USE TYPES

### 11.309 Industrial Use Types

Industrial use types include the onsite extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

a. 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.

b. Custom Manufacturing

Establishments primarily engaged in the onsite 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.

c. 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.

d. 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.

e. 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.

f. Recycling Collection

## USE TYPES

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

g. Recycling Processing

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

h. Resource Extraction

A use involving onsite 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.

i. 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, junk yards, or paper salvage yards.

j. Vehicle Storage (Long-term)

Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

k. Warehousing (Enclosed)

Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies. Storage facilities of at least one acre in total size may provide one on-site managers apartment to oversee the operation of the facility. *(Amended by Ord 13-11; 9-17-13)*

l. Warehousing (Open)

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage.

### 11.310 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 Facility

## USE TYPES

Railroad yards, equipment servicing facilities, and terminal facilities.

c. Transportation Terminal

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

d. Truck Terminal

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

### 11.311 Miscellaneous Type Uses

a. Alternative Energy Production Devices

The support of a residence or business by the production of energy for electrical power utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Alternative energy sources include Wind, Solar, Geothermal, Biomass or Methane in accordance with the provisions of "Net Metering, see definition in Section 11.217." The alternative energy production device, or combination of devices, functions as an accessory use to the principal permitted building or use. (*Amended by Ord 13-11; 9-17-13*)

b. Amateur Radio Tower

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.

c. Communications Tower

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.

d. Construction Batch Plant

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

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, brick, lumber, roofing materials and ceramic tile.

f. Landfill (Putrescible and Non-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 non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

## USE TYPES

g. Wind Energy Conservation System (WECS)

Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines. See Section 11.614 for detailed provisions. (*Amended by Ord 13-11; 9-17-13*)

**ZONING DISTRICT REGULATIONS**

**4** ARTICLE FOUR

**ZONING DISTRICT REGULATIONS**

**11.401 Purpose**

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

**11.402 Establishment of Districts**

The following base districts and overlay districts are hereby established. Table 4-1 displays the purposes of these districts.

<b>BASE ZONING DISTRICTS</b>	
<b>DISTRICTS</b>	<b>DISTRICT NAMES</b>
<b><u>Agricultural Districts:</u></b>	
AG	Agricultural District
RR	Rural Residential District
<b><u>Residential Districts:</u></b>	
R-1	Single-Family Residential District (Low-Density)
R-2	Single-Family Residential (Medium-Density)
R-3	Urban Family Residential District
R-4	Multiple-Family Residential District
MH	Mobile Home Residential District
<b><u>Commercial Districts:</u></b>	
MX	Mixed Use Urban District
LC	Limited Commercial/Office District
CC	Community Commercial District
DC	Downtown Commercial District
GC	General Commercial District
<b><u>Industrial Districts:</u></b>	
BP	Business Park District
LI	Limited Industrial District
GI	General Industrial District
<b><u>OVERLAY DISTRICTS</u></b>	
MU	Mixed Use District
PUD	Planned Unit Development District
TR	Traditional Residential Overlay District
FP	Salt Creek Valley Floodplain/Floodway Overlay District

## ZONING DISTRICT REGULATIONS

### 11.403 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.

Overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation. The Mixed Use District may stand alone as a base district.

### 11.404 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 GI General Industrial District as the most intensive. The Overlay Districts shall not be included in this reference.

### 11.405 Development Regulations

For each Zoning District: Purposes are set forth in Table 4-1; Uses permitted are set forth in Table 4-2; Development Regulations are set forth in Tables 4-2 and Site Development Regulations are presented in Table 4-3.

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

### 11.406 Zoning Map

#### a. Adoption of Zoning Map

Boundaries of zoning districts established by this Zoning Regulations shall be shown on the Zoning Map maintained by the City Clerk. This map shall bear the signature of the Mayor attested by the City Clerk under the certification that this is the Official Zoning Map referred to by this Ordinance. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with these Regulations. Said Zoning Map shall be prominently displayed in the council chambers and/or an area accessible to the public at Waverly City Hall.

#### 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.

### 11.407 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 deemed the district boundary.

## ZONING DISTRICT REGULATIONS

- 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.

### **11.408 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.

### **11.409 Annexation of Territory**

All unimproved or agricultural territory which may hereafter be annexed to the City shall be considered as lying in the AG Agricultural District until such classification shall be changed as provided by this ordinance. Any improved property that is annexed into the city shall be zoned according to the zoning district that most nearly describes either its present use or the use proposed by Waverly's Comprehensive Plan. This zoning shall be established by the Planning and Zoning Commission and the City Council at the time of annexation.

### **11.410 Protection of Existing Structures**

A residence or house that is totally destroyed, or partially destroyed or damaged to the extent such destruction or damage exceeds seventy-five percent (75%) of the assessed value, by fire, flood, wind, water, earthquake or other calamity or act of nature or the public enemy, may be restored provided such residence or house is rebuilt in compliance with the Zoning Regulations and with square footage equal to or greater than the original residence or house.

**ZONING DISTRICT REGULATIONS**

**11.411.100 AGRICULTURAL DISTRICTS:**

**11.411.101 Purpose of Districts:**

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
<b>AG</b>	<b>Agricultural</b>	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. This district is designed to maintain complete agricultural uses within the Waverly extra-territorial jurisdiction.
<b>RR</b>	<b>Rural Residential</b>	This district provides for the rural residential use of land, accommodating very low and low density residential environments. The district regulations assure that density is developed consistent with land use policies of the Waverly Comprehensive Plan regarding rural subdivisions; levels of infrastructure; and environmentally sensitive development practices. The district also accommodates developments that merge urban living with rural life.

**Permitted Principle Uses and Specially Permitted Uses:** "P" Permitted Uses shall be permitted as uses by right; "S" Specially Permitted Uses may be approved as uses in the AG and RR Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

**Commented [MP1]:** Permitted or Special Use Permit? If any additional regulations, reference 11.606j. Should this be regulated outside of corporate limits?

**Commented [MP2]:** Bed and Breakfast is listed as a Commercial Use Type (11.307c.)

Use Types	AG	RR	Addl. Reg.
<b>Agricultural Uses</b>			<b>11.303</b>
Horticulture	P	P	11.602a
Crop Production	P	P	11.602a
Animal Production	P		11.602b
Commercial Feedlots			11.602c
Livestock Sales			11.303e
Kennels	P		11.307o / 11.606g
Personal Services	P		11.307t / 11.606
Pet Services	S		11.307u / 11.606
Stables	S		11.307z / 11.606
Veterinary Services	S		11.307dd
Alternative Energy Production Devices	S		11.311a / 11.612
Amateur Radio Tower	P		11.311b / 11.612
Wind Energy Conversion Systems	S		11.311g / 11.612c
<b>Residential Uses</b>			<b>11.304</b>
Single-Family	P	P	11.603b
Group Residential	P		11.603g
Manufactured Housing Residential	P	P	11.216 (1)
Mobile Home Park			11.603h
Mobile Home Subdivision			11.603i
Retirement Residential	S	S	
<del>Bed and Breakfast</del>	<del>S</del>	<del></del>	<del>11.606d</del>

Use Types	AG	RR	Addl. Reg.
<b>Civic Uses</b>			<b>11.305</b>
Administration		S	
Cemetery	S	S	
Clubs (Recreational)	S	S	11.605a
Clubs (Social)	S		11.605a
College/University	S	S	
Convalescent Services	S	S	
Cultural Services	S	S	
Day Care (Limited)	P	P	11.605b
Day Care (General)	S	S	11.605b
Detention Facilities	S		
Emergency Residential	P	P	
Group Care Facility			11.605c
Group Home	S	S	11.605c
Health Care			
Hospitals			
Maintenance Facilities	S	S	
Park and Recreation	P	P	
Primary Education	S	P	
Religious Assembly	P	P	
Safety Services	P	P	
Secondary Education	S		
Utilities	P	S	
<b>Commercial Uses</b>			<b>11.307</b>
<del>Bed and Breakfast</del>	<del>S</del>	<del></del>	<del>11.606d</del>
<del>Short-Term Rental</del>	<del></del>	<del></del>	<del>11.606j</del>

*(Amended by Ord. 15-03, 6-2-15)*

## ZONING DISTRICT REGULATIONS

**11.411.103 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Section 11.613 of these Regulations;
3. Garden centers and roadside stands, subject to the regulations set forth in Section 6-2(a)(2);

**11.411.104 Height and Area Regulations:** The maximum height and minimum area regulations within AG and RR Districts shall be as follows:

Regulator	AG	RR
<b>Minimum Lot Area (square feet)</b>		
Single Family	20 Acres*	3 Acres
Other Permitted Uses	20 Acres	
<b>Minimum Lot Width (feet)</b>	200	
<b>Site Area per Housing Unit (square feet) by type of residential</b>		
Single-Family	20 Acres	3 Acres
<b>Minimum Yards</b>		
Front Yard	50	50
Rear Yard	50	40
Interior Side Yard		
Residential Uses	50	25
Permitted Non-Residential Uses	50	50
<b>Maximum Height (feet)</b>	No Limit	45
<b>Maximum Building Coverage</b>	NA	NA
<b>Maximum Impervious Coverage</b>	NA	NA
<b>Floor Area Ratio</b>	NA	NA

-See Article 7 for Supplemental Site Development Regulations.  
 \*Exception for Homesteads subject to performance standards set forth in Section 11.603. (Amended by Ord. 13-11, 9-17-13)

**11.411.105 Outdoor Storage of Materials:**

1. Outdoor storage is permitted only where incidental to agricultural use.
2. Outdoor storage is permitted for Civic Use Types only where incidental to Maintenance Facilities.

**11.411.106 Fences:** Fences within the AG and RR Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.

**11.411.107 Lighting:** All outdoor lighting of structures and property within the AG and RR Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.

## ZONING DISTRICT REGULATIONS

- 11.411.108 Landscaping and Screening Standards:** All landscaping and screening within the AG and RR Districts shall be in conformance with the provisions of Article 8 of these Regulations.
- 11.411.109 Off-Street Parking:** Parking within the AG and RR Districts shall be in conformance with the provisions of Article 9 of these Regulations.
- 11.411.110 Sign Regulations:** All signs within the AG and RR Districts shall be in conformance with the provisions of Article 10 of these Regulations.
- 11.411.111 Supplemental Use Regulations: Agricultural Uses:** Uses shall be in accordance with the provisions of Section 11.602.

## ZONING DISTRICT REGULATIONS

### 11.411.201 RESIDENTIAL DISTRICTS:

#### 11.411.202 Purpose of Districts:

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
R-1	<b>Low-Density Single-Family Residential</b>	<p>This district is intended to provide for residential neighborhoods, characterized by single-family dwellings on large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.</p> <p>A one story single-family house shall contain at least 1,200 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area; a split-level or multi-level single-family house shall contain at least 1,200 square feet as the total sum of the nearest floor levels separated by not more than five vertical feet, provided that the floor level nearest ground level used for living purposes shall contain at least 500 square feet, exclusive of garages and other accessory floor area; and a one and one-half story or a two story single-family house shall contain at least 800 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area.</p>
R-2	<b>Medium-Density Single-Family Residential</b>	<p>This district is intended to provide for residential neighborhoods, characterized by single-family and duplex dwellings on relatively large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.</p> <p>A one story single-family house or duplex shall contain at least 1,000 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area; a split level or multi-level single family house or duplex shall contain at least 1,000 square feet as the total sum of the nearest floor levels separated by not more than five vertical feet, provided that the floor level nearest ground level used for living purposes shall contain at least 450 square feet, exclusive of garages and other accessory floor area; and a one and one-half story or a two story single-family house or duplex shall contain at least 600 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area.</p>

## ZONING DISTRICT REGULATIONS

### 11.411.202 Purpose of Districts: (Continued)

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
R-3	Urban Family Residential	<p>This district is intended to provide for moderate-density residential neighborhoods, characterized by single-family dwellings on moderately sized lots and low-density, duplex, and townhouse development. 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 minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.</p> <p>A one story single-family house, duplex, or townhouse shall contain at least 900 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area; a split level or multi-level single family house, duplex or townhouse shall contain at least 900 square feet as the total sum of the nearest floor levels separated by not more than five vertical feet, provided that the floor level nearest ground level used for living purposes shall contain at least 400 square feet, exclusive of garages and other accessory floor area; and a one and one-half story or a two story single-family house, duplex, or townhouse shall contain at least 600 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area.</p>
R-4	Multiple-Family Residential	<p>This district is intended to provide locations primarily for multiple-family housing, with supporting and appropriate community facilities. It also permits some non-residential uses such as offices through a special permit procedure, to permit the development of mixed use neighborhoods.</p>
MH	Mobile Home Residential	<p>This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.</p>

**ZONING DISTRICT REGULATIONS**

**11.411.203 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the R-1 to R-4 and MH Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	R-1	R-2	R-3	R-4	MH	Addl. Reg.
<b>Residential Uses</b>						<b>11.304 / 11.603-604</b>
Single-Family	P	P	P	P		11.603a
Townhouse		P	P	P		11.603c
Duplex		P	P	P		
Multiple-Family				P		
Group Residential		P	P	P		11.603g
Manufactured Housing Residential	P	P	P	P		
Mobile Home Park						11.603h
Mobile Home Subdivision						11.603i
Retirement Residential	S	P	P	P		
<b>Civic Uses</b>						<b>11.305 / 11.605</b>
Administration	S	S	S	S	S	
Cemetery	S	S	S	S		
Clubs (Recreational)	S	S	S	P		11.605a
Clubs (Social)			S	P	S	11.605a
College/University	S	S	S	P	S	
Convalescent Services			S	P	S	
Cultural Services	S	P	S	P	P	
Day Care (Limited)	P	P	P	P	P	11.605b
Day Care (General)	S	S	S	P	S	11.605b
Emergency Residential	P	P	P	P	P	
Group Care Facility			S	P	P	11.605c
Group Home	S	S	S	P	P	11.605c
Guidance Services				P		
Health Care			S	P		
Hospitals				S		
Maintenance Facilities	S					
Park and Recreation	P	P	P	P	P	
Primary Education	P	P	P	P	P	
Public Assembly						
Religious Assembly	P	P	P	P	P	
Safety Services	P	P	P	P	P	
Secondary Education	S	S	S	P	S	
Utilities	S	S	S	S	S	
<b>Office Uses</b>						<b>11.306</b>
General Offices				S		
Financial Offices				S		
Medical Offices				S		
<b>Additional Uses</b>						
Bed & Breakfast	S	S	S	S		11.606d
Short-Term Rental	S	S	S	S		11.606j
Funeral Service				S		11.307n
Alternative Energy Production Devices	S	S	S	S	S	11.311a / 11.612
Amateur Radio Tower	P	P	P	P	P	11.311b / 11.612
Wind Energy Conversion Systems	S	S	S	S		11.311g / 11.612c

*(Amended by Ord. 13-11, 9-17-13; 15-03, 6-2-15)*

**Commented [MP3]:** Permitted or Special Use Permit?  
If any additional regulations, reference 11.606j

## ZONING DISTRICT REGULATIONS

**11.411.204 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted:

1. Private garage and parking for residential uses, in conformance with the provisions of Section 11.704 b(6).
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 611 (a) of these Regulations.
4. Garage sales, provided that the frequency of such sales at any one location shall not exceed a period of three continuous days within a one month period, or four sales during any twelve month period.

**11.411.205 Height and Area Regulations:** Maximum height and minimum area regulations within Districts shall be as follows:

Regulator	R-1	R-2 (Note 1)	R-3 (Note 1)	R-4	MH
<b>Minimum Lot Area (square feet)</b>					2.5 Acres
Single Family	8,400	7,000	6,000	6,000	
Townhouses	---	5,000	3,000	2,000	
Duplex	---	10,000	8,000	7,200	
Multi-Family				9,600	
Other Permitted Uses	8,400	10,000	10,000	10,000	
<b>Minimum Lot Width (feet)</b>	70				
Single Family		60	60	60	
Townhouses		40	25	25	
Duplex		80	70	60	
Multi-Family				80	
Other Permitted Uses				80	
Mobile Home Park					150
<b>Site Area per Housing Unit (square feet) by type of residential</b>					
Single-Family	8,400	7,000	6,000	6,000	5,000
Townhouse		5,000	3,000	2,000	Per Unit
Duplex		5,000	4,000	3,600	
Multi-family			NA	1,500	
<b>Minimum Yards (feet)</b>					
Front Yard	25	25	25	25	50
Street Side Yard	25	15	15	15	50
Interior Side Yard (Note 2)					50
Residential	7.5	7.5	7.5	7.5	
Apartment of 2-3 stories	NA	NA	NA	10	
Apartment more than 3 stories	NA	NA	NA	15	
Permitted Non-Residential Uses	20	20	20	20	
Rear Yard	*	*	*	*	50
				(Note 2)	
<b>Maximum Height (feet)</b>	35	35	35	35	38
<b>Maximum Building Coverage</b>	40%	50%	60%	55%	40%
<b>Maximum Impervious Coverage</b>	55%	65%	75%	75%	60%
<b>Floor Area Ratio</b>	NA	NA	NA	NA	NA
<b>Max. #of Parking Located in Street Yard</b>					
Residential	NA	NA	NA	NA	NA
Other Uses					35%

\*The greater of twenty percent of the lot depth or twenty feet.

**-See Article 7 for Supplemental Site Development Regulations.**

*(Amended by Ord. 13-11, 9-17-13)*

## ZONING DISTRICT REGULATIONS

**Note 1:**

See Section 603 for supplemental regulations governing single-family attached and townhouse residential use types.

**Note 2:**

One Foot of height may be added up to a maximum of 45 feet for each additional one foot provided in front, rear, and side yard setbacks beyond the required minimum.

**11.411.206 Outdoor Storage of Materials:**

1. Outdoor storage is permitted only within an accessory building.
2. Outdoor storage is permitted for Civic Use Types only where incidental to Maintenance Facilities.

**11.411.207 Fences:** Fences within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.

**11.411.208 Lighting:** All outdoor lighting of structures and property within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.

**11.411.209 Landscaping and Screening Standards:** All landscaping and screening within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Article 8 of these Regulations.

**11.411.210 Off-Street Parking:** Parking within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Article 9 of these Regulations.

**11.411.211 Sign Regulations:** All signs within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Article 10 of these Regulations.

**11.411.212 Supplemental Design Standards for Residential Districts:** All structures shall be in accordance with the provisions of Section 11.604.

## ZONING DISTRICT REGULATIONS

### 11.411.301 COMMERCIAL DISTRICTS:

#### 11.411.302 Purpose of Districts:

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
MX	Mixed Use Urban	This district recognizes the potential development or emergence of areas which contain a combination of residential, commercial, and office uses. These areas should include special aesthetic and sign design standards which will help enhance their character as urban neighborhoods which permit various types of uses to be located together to mutual benefit.
LC	Limited Commercial/Office	This district reserves appropriately located area for office development and a limited variety of low-impact commercial facilities which serve the needs of residents of surrounding residential communities. The commercial and office uses permitted are compatible with nearby residential areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.
CC	Community Commercial	This district is intended for commercial facilities which serve the needs of markets ranging from several neighborhoods to the overall region. While allowed commercial and office uses are generally compatible with nearby residential areas, traffic and operating characteristics may have more negative effects on residential neighborhoods than those permitted in the LC District. CC Districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial sub-centers.
DC	Downtown Commercial District	This district is intended to provide appropriate development regulations for Downtown Waverly. Mixed uses are encouraged within the DC District. The grouping of uses is designed to strengthen the downtowns role as a center for trade, service, and civic life.
GC	General Commercial	This district accommodates a variety of commercial uses, some of which have significant traffic or visual effect. These districts may include commercial uses which are oriented to services, including automotive services, rather than retail activities. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from residential districts.

## ZONING DISTRICT REGULATIONS

**11.411.303 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the Commercial Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	MX	LC	CC	DC	GC	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)				<b>11.307 / 11.606 11.607(*)</b>
Ag Sales/Service			S	S	P	
Auto Rental/Sales	S		S	P	P	606c
Auto Services	S	S	S	P	P	606
Body Repair	S		S	S	P	606a
Equip Rental/Sales	S			S	P	606c
Equipment Repair					P	606a
Bed and Breakfast	P	P	P	P	P	606d
Business Support Services	P	P	P	P	P	
Business/Trade School	P		P	P	P	
Campground			S		S	606e
Cocktail Lounge	S		S	S	P	
Commercial Rec (Indoor)	S	S	P	P	P	
Commercial Rec (Outdoor)					P	
Communication Service	P	S	P	P	P	
Construction Sale/Service	S		S	S	P	
Consumer Service	P	P	P	P	P	
Convenience Storage			S		S	606f
Firework Sales			P			
Food Sales (Convenience)	P	S	P	P	P	
Food Sales (Limited)	P	P	P	P	P	
Food Sales (General)	S	S	P	P	P	
Food Sales ( <del>Super-</del> <del>markets</del> Supermarkets)	S		P	P	S	
Funeral Service	P	P	P	P	P	
Gaming Facility			S	S	S	
Kennels					S	606g
Laundry Services	S			S	P	
Liquor Sales			P	P	P	
Lodging	P		P	P	P	
Personal Improvement	P	p	P	P	P	
Personal Services	P	P	P	P	P	
Pet Services	P	P	P	P	P	
Research Services	P	P	P	P	P	
Restaurants (Drive-in)	S	S	P	S	P	
Restaurants (General)	P	P	P	P	P	606h
Restricted Business						606i
Retail Services (Limited)	P	P	P	P	P	
Retail Services (Medium)	P	S	P	P	P	
Retail Services (Mass)			P	S	P	

**ZONING DISTRICT REGULATIONS**

Use Types	MX	LC	CC	DC	GC	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)				<b>11.307 / 11.606 11.607(*)</b>
Short-Term Rental	S	S	S	S		<b>11.606j</b>
Stables					S	
Surplus Sales				S	P	
Trade Services	P		S	S	P	
Vehicle Storage (Long-term)					S	
Veh. Storage (Short-term)	S				P	
Veterinary Services	P	S	S	S	P	
<b>Office Uses</b>						<b>11.306 / 11.607</b>
General Offices	P	P	P	P	P	
Financial Offices	P	P	P	P	P	
Medical Offices	P	P	P	P	P	
<b>Parking Uses</b>						<b>11.308</b>
Off-Street Parking	S		S	P	P	
Parking Structure			S	P	S	
<b>Residential Uses</b>						<b>11.304 / 11.603</b>
Single-Family	P	S				603a
Duplex	P	S				
Two-Family	P	S				603c
Townhouse	P	P		P		603b
Multiple-Family		P	S	P	S	
Downtown Residential				P		603d
Group Residential	S	S	S			603e
Manufactured Housing Residential		S				
Mobile Home Park						603f
Mobile Home Subdivision						603g
Retirement Residential	P	P	S	P	S	
<b>Civic Uses</b>						<b>11.305 / 11-605</b>
Administration	P	P	P	P	P	
Cemetery						
Clubs (Recreational)	P	P		S	P	605a
Clubs (Social)	P	P	P	P	P	605a
College/Universities	P	P	P	P	P	
Convalescent Services	P	P	P	S		
Cultural Services	P	P	P	P	P	
Day Care (Limited)	P	P	P	P	S	605b
Day Care (General)	P	P	P	P	P	605b
Detention Facilities					S	
Emergency Residential	P	P	P	P		
Group Care Facility	P	P	P	P	P	605c
Group Home	P	P	P	P	P	605c
Guidance Services	P	P	P	P	P	
Health Care	P	P	P	P	P	
Hospitals	S	S	S	S	S	

**Commented [MP4]:** Permitted or Special Use Permit?  
If any additional regulations, reference 11.606j

**ZONING DISTRICT REGULATIONS**

Use Types	MX	LC	CC	DC	GC	Addl. Reg.
<b>Civic Uses (Cont.)</b>						<b>11.305 / 11.605</b>
Maintenance Facilities	S				P	
Park and Recreation	P	P	P	P	P	
Postal Facilities	P	P	P	P	P	
Primary Education	P	P	P	P	S	
Public Assembly	S	S	S	P	P	
Religious Assembly	P	P	P	P	P	
Safety Services	P	P	P	P	P	
Secondary Education	P	S	S	S	S	
Utilities	S	S	S	S	P	
<b>Industrial Uses</b>						<b>11.309</b>
Custom Manufacturing			S	P	P	
Recycling Collection			S	S	P	
Warehousing (Enclosed)				S	S	
<b>Transportation Uses</b>						<b>11.310</b>
Railroad Facilities				S	S	
Truck Terminal					S	
Transportation Terminal			S	S	S	
<b>Miscellaneous Uses</b>						<b>11.311</b>
Alternative Energy Production Devices	S	S		S	S	11.311a
Amateur Radio Tower	P	P	P	P	P	11.311b / 11.612
Communications Tower						11.612a
Construction Batch Plant					P	
Wind Energy Conversion Systems**	S	S		S	S	11.311g / 11.612c

*(Amended by Ord. 15-03, 6-2-15)*

**11.411.304 Outdoor Storage in Commercial Districts:**

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 Auto Services, Equipment Repair, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Article 11.805. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.
3. Outdoor storage is permitted in Civic Use Types only where incidental to Maintenance Facilities.

**11.411.305 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted:

1. Private garage and parking for residential uses, in conformance with the provisions of Section 11.704 b(6).
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 611 (a) of these Regulations.
4. Garage sales, provided that the frequency of such sales at any one location shall not exceed a period of three continuous days within a one month period, or four sales during any twelve month period.

**-See Article 7 for Supplemental Site Development Regulations.**

**ZONING DISTRICT REGULATIONS**

**11.411.306 Height and Area Regulations:** Maximum height and minimum area regulations within Districts shall be as follows:

<b>Regulator</b>	<b>MX</b>	<b>LC</b>	<b>CC</b>	<b>DC</b>	<b>GC</b>
<b>Minimum Yards (feet)</b>					
Front Yard	(Note 2)	25	25	0	25
Street Side Yard	15	15	15	0	15
Interior Side Yard (Note 1)					
1 to 1.5 stories	7	10	0	0	0
2-3 stories	10	10	10	0	0
More than 3 stories	12	12	10	0	0
Non-Residential Uses	10	10	10	0	0
Rear Yard	25	25	25	0	20
<b>Maximum Height (feet)</b>	45	45	50	No limit	50
<b>Maximum Building Coverage</b>	50%	50%	60%	100%	70%
<b>Maximum Impervious Coverage</b>	70%	70%	80%	100%	90%
<b>Floor Area Ratio</b>	1.0	0.50	1.0	No limit	1.0
	1.0				
<b>Maximum Amount of Total Parking Located in Street Yard</b>					
Residential	NA	NA	NA	NA	NA
Other Uses	35%	50%	NA	35%	NA
<b>Minimum Lot Area (square feet)</b>				None	
One-Family	6,000	6,000			---
Duplex, Townhouses	7,200	7,200			---
Multi-Family	---	9,600	8,000		---
Other Permitted Uses	8,000	6,000	6,000		6,000
<b>Minimum Lot Width (feet)</b>				None	
One-Family	60	60			
Duplex	60	60			
Townhouses	20	20			
Multi-Family	80	80	80		
Other Permitted Uses	80	80	50		50
Mobile Home Park					
<b>Site Area per Housing Unit (square feet) by type of residential</b>					
Single-Family	6,000	6,000			NA
Two-family, duplex	3,600	3,600			
Townhouse	2,000	2,000		2,000	
Multi-family	---	1,500	1,500	1,000	

-See Article 7 for Supplemental Site Development Regulations.

**Note 1:**

One foot of height may be added up to a maximum of 45 feet for each additional one foot provided in front, rear, and side yard setbacks beyond the required minimum.

**Note 2:**

Normal minimum setback is 25 feet. Front yard setback may be reduced to 15 feet if:

1. No parking is placed within the street yard.
2. The entire street yard area is landscaped, with the exception of driveways to parking areas or pedestrian accesses to the principal building on the site.

## ZONING DISTRICT REGULATIONS

- 11.411.307 Fences:** Fences within the Commercial Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.
- 11.411.308 Lighting:** All outdoor lighting of structures and property within the Commercial Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.
- 11.411.309 Landscaping and Screening Standards:** All landscaping and screening within the Commercial Districts shall be in conformance with the provisions of Article 8 of these Regulations.
- 11.411.310 Off-Street Parking:** Parking within the Commercial Districts shall be in conformance with the provisions of Article 9 of these Regulations.
- 11.411.311 Sign Regulations:** All signs within the Commercial Districts shall be in conformance with the provisions of Article 10 of these Regulations.
- 11.411.312 Supplemental Design Standards for Office and Commercial Uses in the MX and LC Districts:** All structures shall be in accordance with the provisions of Section 11.607.

## ZONING DISTRICT REGULATIONS

### 11.411.400 INDUSTRIAL DISTRICTS:

#### 11.411.401 Purpose of Districts:

<b>BP</b>	<b>Business Park</b>	This district is designed to promote the development of planned business parks that accommodate corporate offices, research facilities, and structures which can combine office, distribution, and limited industrial uses. These facilities serve a more regional audience, but may provide services to local residents. They are characterized by extensive landscaping, abundant parking facilities, and good visual and pedestrian relationships among buildings.
<b>LI</b>	<b>Limited Industrial</b>	This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.
<u>Symbol</u> GI	<u>Title</u> General Industrial	<u>Purpose</u> 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

## ZONING DISTRICT REGULATIONS

**11.411.402 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the Industrial Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	BP	LI	GI	Addl. Reg.
<b>Industrial Uses</b>				<b>11.309</b>
Agricultural Industry		S	P	
Construction Yards		P	P	
Custom Manufacturing	P	P	P	
Light Industry	S	P	P	
General Industry		P	P	
Heavy Industry			S	
Recycling Collection		P	P	
Recycling Processing		P	P	
Resource Extraction			S	608a
Salvage Services		S	S	608b
Warehousing (Enclosed)	P	P	P	
Warehousing (Open)		S	P	
<b>Transportation Uses</b>				<b>11.310</b>
Aviation	S	S	P	
Railroad Facilities	S	P	P	
Truck Terminal		S	P	
Transportation Terminal		P	P	
<b>Miscellaneous Uses</b>				<b>11.311</b>
Alternative Energy Production Devices	P	P	P	
Amateur Radio Tower	P	P	P	
Communications Tower		S		612a
Construction Batch Plant		S	P	
Landfill (Non-Putrescible)			S	612b
Landfill (Putrescible)				612b
Wind Energy Conversion Systems**	P	P	P	311a 614
On-Site Dwelling for Resident Manager***	S	P	P	612c

Communications Tower (Amended by Ord. 04-04, 5-3-04)

Salvage Services (Amended by Ord. 04-05, 7-5-04; 06-04, 4-17-06)

\*All Industrial use types are subject to performance standards set forth in Section 11.608 and 11.609.

\*\*Wind Energy Conversion Systems, see Section 11.311 (g)

\*\*\*On-Site Dwelling for Resident Manager Permitted

Use Types	BP	LI	GI	Addl. Reg.
<b>Civic Uses</b>				<b>11.305</b>
Administration	P	P	P	
Cemetery				
Clubs (Recreational)	S	P	P	605a
Clubs (Social)	P	P	P	605a
College/University	P	P		
Convalescent Services				
Cultural Services	P	P		
Day Care (Limited)	S	S	S	605b
Day Care (General)	P	S	S	605b
Detention Facilities		S	S	
Emergency Residential				
Group Care Facility				605c
Group Home				605c
Guidance Services	P	P	P	
Health Care	P	P	P	
Hospitals	P	S	S	
Maintenance Facilities		P	P	
Park and Recreation	P	P	P	
Postal Facilities	P	P	P	
Primary Education				
Public Assembly	S			
Religious Assembly		S		
Safety Services	P	P	P	
Secondary Education				
Utilities		P	P	
<b>Office Uses</b>				
General Offices	P	P	P	
Financial Offices	P	P	P	
Medical Offices	P	P	S	

for Self-Storage Warehousing Only. (Amended by Ord. 14-05, 7-1-14)

**ZONING DISTRICT REGULATIONS**

Use Types	BP	LI	GI	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)		<b>11.307 / 11.606 11.607(*)</b>
Ag Sales/Service		P	P	
Auto Rental/Sales				606c
Auto Services		P	P	606
Body Repair		P	P	606a
Equip Rental/Sales		P	P	606c
Equipment Repair		P	P	606a
Bed and Breakfast				606d
Business Support Services	P	P	P	
Business/Trade School	P	P	P	
Campground				606e
Cocktail Lounge	S	S	S	
Commercial Rec (Indoor)	P	P	P	
Commercial Rec (Outdoor)		P	P	
Communication Service	P	P	P	
Construction Sale/Service		P	P	
Consumer Service	P	P		
Convenience Storage		P	P	606f
Firework Sales				
Food Sales (Convenience)	P	P	P	
Food Sales (Limited)	P	P	P	
Food Sales (General)				
Food Sales (Super markets)				
Funeral Service	P	P	P	
Gaming Facility		P	P	
Kennels		P	P	606g
Laundry Services		P	P	
Liquor Sales		S		
Lodging	P	S		
Personal Improvement	P	P	P	
Personal Services	P	P	P	
Pet Services	P	P		
Research Services	P	P	P	
Restaurants (Drive-in)		S	S	
Restaurants (General)	P	S	S	606h
Restricted Business		S	P	606i
Retail Services (Limited)	S			
Retail Services (Medium)	P			
Retail Services (Mass)				

*(Amended by Ord. 14-05, 7-1-14)*

Use Types	BP	LI	GI	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)		<b>11.307 / 11.606 11.607(*)</b>
Stables				
Surplus Sales		P	P	
Trade Services	P	P	P	
Vehicle Storage (Long-term)		P	P	
Veh. Storage (Short-term)		P	P	
Veterinary Services		P	P	

**ZONING DISTRICT REGULATIONS**

**11.411.403 Outdoor Storage in Industrial Districts:**

1. Outdoor storage is permitted where incidental to Industrial uses within the GI and LI Zoning Districts. Open storage of materials and equipment shall be permitted only within an area surrounded and screened by a solid wall or fence or compact evergreen hedge (with solid gates where necessary), minimum height of six (6) feet and maximum height of eight (8) feet, provided that no material stored to a height greater than that of the fence, wall or hedge.
2. Outdoor storage is permitted where incidental to landfills.
3. Outdoor storage is permitted in Civic Use Types only where incidental to Maintenance Facilities.

**11.411.404 Permitted Accessory Uses.**

**11.411.405 Height and Area Regulations:** Maximum height and minimum area regulations within Districts shall be as follows:

Regulator	BP	LI	GI
<b>Minimum Lot Area (square feet)</b>	10,000	7,000	7,000
<b>Minimum Lot Width (feet)</b>	80	60	60
<b>Minimum Yards (feet)</b>			
Front Yard	25	25	50
Street Side Yard	25	25	25
Interior Side Yard	10	0	0
Rear Yard	25	25	25
<b>Maximum Height (feet)</b>	No limit	75	No limit
<b>Maximum Building Coverage</b>	60%	70%	70%
<b>Maximum Impervious Coverage</b>	80%	90%	90%
<b>Floor Area Ratio</b>	2.0	1.0	No limit
<b>Maximum Amount of Total Parking Located in Street Yard</b>	50%	No limit	No limit

-See Article 7 for Supplemental Site Development Regulations.

**11.411.406 Fences:** Fences within the Industrial Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.

**11.411.407 Lighting:** All outdoor lighting of structures and property within the Industrial Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.

**11.411.408 Landscaping and Screening Standards:** All landscaping and screening within the Industrial Districts shall be in conformance with the provisions of Article 8 of these Regulations.

**11.411.409 Off-Street Parking:** Parking within the Industrial Districts shall be in conformance with the provisions of Article 9 of these Regulations.

**11.411.410 Sign Regulations:** All signs within the Industrial Districts shall be in conformance with the provisions of Article 10 of these Regulations.

## SUPPLEMENTAL USE REGULATIONS

# 6

### ARTICLE SIX

#### SUPPLEMENTAL USE REGULATIONS

##### 11.601 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 controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Ordinance. The regulations contained in this Article pertain both to uses allowed by right within various zoning districts; and to uses that require approval as Special Uses by the Planning Commission. Nothing contained in this section shall limit the right of the Planning Commission or City Council on appeal to impose additional conditions on developments seeking Special Use Permit approval.

##### 11.602 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 20-foot landscaped bufferyard, consistent with the standards established in Article 11.804.

###### 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. Animal Production

- 1. No commercial poultry or livestock operation shall be located within 100 feet of any residential or commercial zoning district.

## SUPPLEMENTAL USE REGULATIONS

2. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the AG District, provided that any building housing such animals shall be at least 100 feet from any property line and 25 feet from any dwelling unit on the site. No animals with measurable odors shall be raised for commercial purposes within the city limits.

3. Within the AG District, any lot less than 2 acres shall be prohibited from maintaining any horses or other equine and/or hooved animal. Any lot 2 acres and over may maintain one horse or other equine and/or hooved animal and its immature offspring, up to a maximum total of two such animals. No stable shall be located closer than 50 feet to any dwelling unit on the site. *(Amended by Ord. 01-01, 1/3/01)*

c. Commercial Feedlots

Commercial Feedlots are not permitted within the jurisdiction of the City of Waverly.

### 11. 603 Supplemental Use Regulations: Residential Uses

a. Zero-Lot Line Single-Family 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 yard must equal at least twice the normal required minimum side yard and must taken by itself comply with all side yard requirements for the zoning district.

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 Lancaster County Register of Deeds and the City Clerk at the time of application for a building permit.

b. Townhouse Residential

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

1. The minimum width for any townhouse lot sold individually shall be 25 feet, except within an approved creative subdivision.

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

~~c. 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. The second dwelling unit shall be served by a driveway at least ten feet in width, leading from a public street adjacent to the lot.~~

**Commented [MP1]:** Two-Family Residential is not a listed use type in Article 3

d. Downtown Residential and Group Residential Uses in the DC District

Downtown Residential and Group Residential uses are permitted in the DC District subject to the following conditions:

## SUPPLEMENTAL USE REGULATIONS

1. Downtown and Group Residential uses are permitted in the DC 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 by the Planning Commission.
2. Residents of units must be informed by the owner of the building that lawful commercial uses have priority over residential uses.
3. All upper level apartments must have two separate means of egress.
4. One parking space marked and reserved for tenants must be provided for each unit. This parking space shall be located within a maximum distance of 300 feet of the unit.

### ed. Group Residential

Where permitted, Group Residential use must comply with the following requirements:

1. Within the AG, RR, R-1, R-2, and MH districts, no more than six persons in addition to the family of the owner shall be permitted to reside in an owner-occupied dwelling unit. No more than five persons shall be permitted to reside in a non owner-occupied dwelling unit.
2. Within the R-3 and R-4 districts, no more than ten persons in addition to the family of the owner shall be permitted to reside in an owner-occupied dwelling unit. No more than seven persons shall be permitted to reside in a non owner-occupied dwelling unit.
3. A minimum of 250 square feet must be provided in the dwelling unit for each resident.

### fe. Mobile Home Parks

In the MH Mobile Home Residential District, which permits mobile home residential use, such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective date of this Ordinance, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to approval as a Special Use by the Planning Commission and compliance with the following regulations:

#### 1. 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 issued by the Zoning Administrator prior to the occupancy of any new Mobile Home Park or any expansion of an existing Mobile Home Park.

#### 2. Minimum and Maximum Area

A Mobile Home Park shall be considered to be one zoned lot. The contiguous area of a Mobile Home Park shall have a minimum of 2.5 acres and a maximum of 15 acres.

#### 3. Density Requirements

- (a) The minimum gross site area per dwelling unit shall be 5,000 square feet.
- (b) The minimum size of an individual mobile home space shall be 4,000 square feet for single-wide mobile home units and 6,000 square feet for double-wide mobile home units.
- (c) Each mobile home space shall have a width of at least 50 feet wide and a length of at least 80 feet.

## SUPPLEMENTAL USE REGULATIONS

### 4. Site Development Standards

(a) Setbacks: Each Mobile Home Park shall have a minimum perimeter setback of 30 feet from adjacent non-residential uses and 50 feet from adjacent residential uses. 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 and screened in conformance with Section 8 of this Ordinance. Screening shall be provided in conformance with Article 8 for any common property line with another non-residential use.

(c) Impervious Coverage: Impervious coverage for a Mobile Home Park shall not exceed 50 percent of the total site area.

(d) Open Space: Each Mobile Home Park shall provide a minimum of 400 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. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.

(e) Separation Between Mobile Home 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.

### 5. Street Access and Circulation Requirements

(a) Access to Public Street: Each Mobile Home 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 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 two off-street parking stalls for each mobile home space.

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6. Tornado Shelters: Underground tornado shelters shall be provided in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Emergency Management authority and be large enough to meet the specific needs of the park and its residents.
7. Utilities
  - (a) All Mobile Home Parks shall 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.
  - (b) Complete sanitary and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.
  - (c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance and other applicable city codes and public improvement design standards.
  - (d) All electric, telephone, gas, and other utility lines shall be installed underground.
8. 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.
9. Completion Schedule: Construction must begin on any approved Mobile Home Park within one year of the date of approval by the Planning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.
10. All other uses and provisions of the Waverly Mobile Home Park regulations are incorporated herein by reference. These provisions include tie-down and other structural requirements included in the Waverly Municipal Codes.

### ef. Mobile Home Subdivisions

1. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Chapter of the Land Development Ordinance of Waverly. Site development regulations shall be the same as those required in the R-2 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.
2. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance.
3. Mobile Home Subdivisions shall provide tornado shelter facilities as required by Section 603 f(5).
4. The minimum size of a mobile home subdivision shall be ten (10) acres.

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### hg. Earth-Sheltered Residences

No subterranean or basement structure shall be occupied for residential purposes, except for those that meet the following requirements as earth-sheltered residences:

1. The living area shall be provided with exterior windows and/or skylights with a total glassed area of at least 10% of the gross floor area of the residence. Such windows or skylights shall give direct access to natural light and open space.
2. All earth sheltered residences shall conform to the development regulations for their respective zoning districts.
3. An outdoor space shall be provided immediately outside one wall of the residence that has:
  - a) A minimum size of 500 square feet.
  - b) A minimum width of 20 feet.
  - c) An average grade elevation no more than 2 feet above or below the finished floor elevation of the residence.
4. All earth-sheltered residences shall have structural systems designed by a professional structural engineer and shall have plans signed and approved by such engineer.

### ih. Homestead Exemptions (*Est. by Ord. 01-01, 1/3/01*)

A lot or parcel of land of five acres or more located within an AG District may be used for a single family dwelling, provided that a residential structure:

1. has existed on such land for more than five years;
2. such structure is, or has been, used as the primary residence associated with a farm;
3. is in conformance with other provisions of the zoning codes, the minimum building codes, and the minimum standards for water and sewage facilities and does not represent a hazard to the health and safety of occupants;
4. have been properly platted and subdivided; and
5. leaves a balance of twenty or more acres for each parcel of land platted.

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### 11.604 Supplemental Design Standards for Residential Districts(Amended by Ord. 11-07, 4/5/11)

#### a. Building Design

1. Architectural design and style are not restricted; however architectural style shall be consistent throughout the development. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. The primary building material of residential and non residential structures within the residential zoning districts shall be negotiated with the City; however, sample materials shall include, but not be limited to, preferred materials of high quality such as brick (clay), stucco, wood, glass, pre-cast concrete, split faced concrete masonry units (CMU) with integrated color pigmentation, stone material and architectural metal siding with a standard residential appearance. Pre-engineered metal buildings or standing seam metal siding is not allowed.
3. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
4. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance. Measures shall be taken to break up the flatness of all buildings and reduce the scale of large buildings using windows and architectural ~~bung~~ building design and techniques. No street-facing façade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
5. Pitched or gabled roofs shall have a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Flat roofs on buildings shall have parapets. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.

Commented [MP2]: Remove Typo

### 11.605 Supplemental Use Regulations: Civic Uses(Amended by Ord. 11-07, 4/5/11)

#### a. Community Centers and Clubs

Clubs located adjacent to residential uses shall maintain a buffer yard of not less than 40 feet along the common boundary with such residential use.

#### b. Day Care

1. Limited Day Care uses are permitted on residential lots and may be operated by the occupant of a dwelling unit on the site.
2. Day care facilities are permitted by Special Use permit in the GI General Industrial Zoning District only if incidental to a permitted primary use.
3. Day care centers accommodating more than four children or adults shall:
  - a) Not be located along a major arterial street as designated in the City's Comprehensive Development Plan.
  - b) Provide at least 100 square feet of open space per child, entirely enclosed by a building, fence, or wall with a height of at least six feet.

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~~e) Conform with all requirements and licensures of the State of Nebraska.~~

**Commented [MP3]:** Remove a & b. Day care centers accommodating more than four children or adults shall conform with all requirements and licensures of the State of Nebraska.

c. Group Care Facilities and Group Homes

1. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental subdivision.
2. Group homes are permitted in the DC District only on levels above street level except that a facility 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.

**11.606 Supplemental Use Regulations: Commercial Uses** (Amended by Ord. 11-07, 4/5/11)

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. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways. Screening is subject to provisions of Article 8 of this ordinance.
2. Any spray painting must take place within structures designed for that purpose and approved by the Building Official.

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 three automobiles per bay on the approach side and one 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 in the DC 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. Campgrounds

1. Minimum Size: Each campground established after the effective date of this Ordinance shall have a minimum size of one acre.

## SUPPLEMENTAL USE REGULATIONS

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, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

### f. Convenience Storage

When permitted in the CC, GC, GI, LI, and MH Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be one acre.
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 paved 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.

### g. Kennels

1. The minimum lot size shall be two acres.
2. No building or dog runs shall be located nearer than 1,000 feet to the property line of any residential use or district.
3. All kennel facilities shall be screened around such facilities or at property lines to prevent distracting or exciting animals. Screening shall be of a type provided by Article 8, establishing landscape and screening standards.

### h. Restaurants

Restaurants in the LC District that include the accessory sale of alcoholic beverages require approval of a Special Use Permit, as set forth in Section 11.1203.

### i. Restricted Businesses (*Amended by Ord. 00-10, 1/15/01*)

1. Every restricted business shall require approval of a Special Use Permit, as set forth in Section 11.1203.
2. Not more than one restricted business shall be located within 1,500 feet of another restricted business measured from the nearest access doors of the two establishments, regardless of whether such uses are located in the same facility, separate facilities, or different zoning districts.

### SUPPLEMENTAL USE REGULATIONS

3. No restricted business shall be permitted on the same block with any property zoned AG, RR, R-1, R-2, R-3, R-4, MH, MX, LC, CC, or DC; or within 1,500 feet of any residential or civic use type as measured from the nearest access door of the restricted business to the property line of such property or outdoor use or the nearest access door of a use within a building.
4. The operation of any restricted business, if approved by Special Use Permit, shall have business hours not to exceed 11:00 a.m. to 12:00 midnight, Monday through Saturday.

#### j. Short-Term Rentals

A special use permit shall be required for any person to make available, or advertise, a short-term rental unit within the corporate limits of the City of Waverly. Permitted Short-Term Rentals are subject to the following conditions: —

1. The maximum number of persons who may occupy said short-term rental is calculated as the total number of sleeping areas on the licensed premises multiplied by two, up to a maximum of 12 persons.
2. No more than 10% of the total dwelling units 10 in a multi-family premises may be used or registered as short-term rentals. Regardless of the 10% cap, a multi-family premises may have at least one short term 12 rental.
3. Said short-term rental shall file the required lodging taxes with the county and state
4. Said short-term rental shall be properly maintained including structural maintenance and the grounds, per local and state building codes.
5. Said short-term rental shall be properly maintained including structural maintenance and the grounds
6. Said short-term rental is subject to the property's zoning district off-street parking requirements, per Article 9 of the Waverly Zoning Regulations
6. Said short-term rental shall not be used for any of the following:
  - (a) Housing sex offenders.
  - (b) Operating a structured sober living home or similar enterprise.
  - (c) Selling illegal drugs.
  - (d) Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act.
  - (e) Operating a sexually oriented business.
  - (f) Any other type of illegal activities as defined by local, state, and federal laws.

Failure to comply with the regulations in Section 11.606j, may result in any permit for a short-term rental to be revoked.

**Commented [MP4]:** Should STR's be allowed in multi-family dwellings?

## SUPPLEMENTAL USE REGULATIONS

### 11.607 Supplemental Design Standards for Office and Commercial Uses in the MX and LC Districts (Amended by Ord. 11-07, 4/5/11)

#### a. Design Standards for the MX Mixed Use Urban and LC Limited Commercial Districts

In order to maintain the character of mixed use urban corridors within Waverly, the following design standards shall apply to any office or commercial use developed within the LC District:

1. No single building has a building coverage area that exceeds 10,000 square feet.
2. No street-facing facade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
3. Window area on each facade shall be equal to at least 20% of the area of that facade.
4. Exterior materials shall be brick, stone, wood clapboard, or other exterior materials typical of exterior building materials in common use in Waverly's residential districts or town center business district.
5. The dominant roof form shall be a pitched or gabled roof with a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.
6. Surface parking may be adjacent to no more than 35% of the property line of the site's principal street frontage.
7. Each site design shall provide a clear and safe method of pedestrian circulation along the street right-of-way and between the street right-of-way and a principal customer entrance of the business.

### 11.608 Supplemental Use Regulations: Industrial Uses (Amended by Ord. 11-07, 4/5/11)

#### 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.

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(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. Alternately, 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.

b. Salvage Services (Amended by Ord. 04-05, 7/5/04)

1. All salvage service operations shall be conducted within a fully enclosed building.
2. 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.
3. No Salvage Services use may be established within 1,000 feet of the nearest property line of a residential zoning district or any civic use.

**11.609 Performance Standards for Industrial Uses**(Amended by Ord. 11-07, 4/5/11)

a. Industrial Uses in the LI District: Performance Standards

The following performance standards apply to all industrial uses permitted within an LI Limited Industrial zoning district:

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.
2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of Lancaster County and the City of Waverly.
3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the LI district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
4. Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
5. Air Contaminants: No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.
6. Odor: The emission of odors determined by the Planning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.

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7. Gases: No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed 5 parts per million taken at the property line of the operation.
8. Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
9. Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.
10. Storage of Chemical Products: If allowed by Special User Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial zoning district.

### 11.610 Supplemental Design Standards for Industrial Districts (Amended by Ord. 11-07, 4/5/11)

#### a. Building Design

The primary building material of Industrial structures shall be negotiated with the City; however, sample materials shall include, but not be limited to, preferred materials of high quality such as brick (clay), stucco, wood, glass, pre-cast concrete, split faced concrete masonry units (CMU) with integrated color pigmentation, and stone material.

#### 1. Exposed concrete systems are allowed subject to the following standards:

- I. Panels shall be embossed with reveals that repeat a common pattern.
- II. All elevations visible from a public or private street shall include variable parapet heights and two feet minimum projections with the distance between not to exceed 60 feet.
- III. All main entries (or storefronts) shall be identified by the use of an arcade, covered entry, spandrel glass, or other similar architectural feature.

#### 2. Pre-engineered metal building panels will be allowed provided that a minimum of 30 percent of the street side façade(s) is of a preferred material and that the metal material is of good quality with a factory applied finish. Standard corrugated or galvanized metal is not allowed.

#### b. Landscaping - Exterior Boundaries

1. A landscaped buffer of a minimum of 25 feet in width shall be maintained within and along the exterior boundaries of any industrial development or industrial park except those portions of the boundaries adjacent to dedicated public streets and alleys.

#### c. Landscaping - Developed Lots

1. All of a developed lot except that portion covered by buildings, parking lots, and driveways shall be landscaped. Landscaping may consist of grass, trees, decorative walls,

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screenings, terraces, fountains, pools, or other landscaping approved by the City of Waverly. Proposed landscaping shall be included upon the preliminary plat. Landscaping in accordance with the approved final plat and subdivision agreement is mandatory.

d. Outdoor Waste Storage – Screened From View

1. Outdoor storage of waste material or refuse and all refuse collection bins, cans, or other containers shall be concealed from view such that the same cannot be seen from any point under ten feet in height outside of the district, or from any point indoors or outdoors, on adjoining property within the district.

e. Landscaping – Interior Property Lines

1. A landscaped buffer of a minimum of ten feet in width shall be established and maintained along the interior of property lines of all lots in any industrial park except for those areas used for ingress and egress to the property through curb-cuts opening onto dedicated public streets and alleys.

**11.611 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts** (Amended by Ord. 11-07, 4/5/11)

Table 6-1 displays the maximum permitted sound levels that may be generated by uses in the CC, GC, BP, or LI zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

**Table 6-1: Maximum Permitted Sound Levels at Residential Boundaries**

<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq*</u> <u>(dbA)</u>
CC, GC, LI	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55
GI	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m.	55

\* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

**11.612 Supplemental Use Regulations: Miscellaneous Uses**(Amended by Ord. 11-07, 4/5/11)

a. Communications Towers

Communications towers, where permitted, are subject to the following additional requirements:

1. Co-Location: It is the policy of the City of Waverly to encourage the co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers or suitable buildings has been explored and exhausted. Applicants may not be denied space on an existing tower within the City of Waverly unless mechanical, structural, or regulatory factors prevent co-location.

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2. Towers shall be located so that the distance from the base of the tower to any adjoining property line, or permanent structures except tower supporting structures, or the supporting structure of another separate tower is a minimum of 100% of the tower height. *(Amended by Ord. 04-04, 5/3/04)*

3. The tower facility shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Waverly. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood. Metal exteriors shall not be permitted for support accessory buildings.

4. All tower facilities shall provide landscaped peripheral yards with a minimum depth of 35 feet. One tree consistent with the provisions of Article 8 shall be planted for every 500 square feet of required peripheral yard area.

### b. Landfills

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

2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.

3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Waverly. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.

4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State or Federal Highway.

5. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska Department of Environmental Quality.

6. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Waverly and its extra-territorial jurisdiction.

### c. On-Site Dwelling for Resident Manager Permitted for Self-Storage Warehousing Only *(Amended by Ord. 14-05, 7-1-14)*

1. Minimum Lot Size: One acre.

2. Dwelling: The minimum square feet of the dwelling unit for the resident manager shall be 900 square feet with a maximum of 1000 square feet. The dwelling shall be attached to one of the storage facility buildings and located at the main entrance of the property. The dwelling shall be a single story, slab on grade dwelling with a maximum height of 20 feet. The dwelling shall meet all Building, Energy Conservation, Plumbing, Mechanical, and Fire Codes set forth by the City of Waverly Residential Code. The exterior materials of the dwelling shall be similar to that of the materials of the storage facilities with a minimum of 30% of the street side facade(s)

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being of brick; native or manufactured stone. All Industrial Site Development Regulations not specified here within shall be followed.

### d. Swimming Pools

1. Permit Required: Building permits are required for all pools, spas, and hot tubs which have a maximum depth of greater than twenty-four inches (24").

2. Barrier Requirement: The following is required for any pool, spa, and hot tub greater than 24" in maximum depth:

(a) A barrier with a minimum height of four feet (4') or forty-eight inches (48").

(b) Any openings in the barrier shall not allow the passage of a four-inch (4") diameter sphere

(c) Access gates shall be of the latching type and shall be equipped to accommodate a locking device

Exception: Spas or hot tubs with a safety cover which comply with ASTM F 1346 shall be exempt from the above barrier requirements.

### 3. Location and Setbacks:

(a) Pools, spas, and hot tubs shall not be allowed within the required front yard of any lot.

(b) Pools, spas, and hot tubs shall be located a minimum of five feet (5') from any side and/or rear lot line.

(c) Pools shall be located a minimum of six feet (6') from the foundation of any building, principle structure, and/or accessory structure.

**Commented [MP5]:** Current handout states 5' from side lot line, 8' from rear. Not sure why 8' was established as the rear setback. These setbacks are not listed in any of the current regulations, muni code, or permit form. 5' setback is common in other communities.

## 11.613 Supplemental Use Regulations: Accessory Uses (Amended by Ord. 11-07, 4/5/11)

### a. Home-Based Businesses/ Home Occupations

Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

#### 1. External Effects:

(a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.

(b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.

(c) 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 these zoning regulations. All "External Effects" criteria in items a. 1. (a), (b), (d), (e) and (f) of this subsection are applicable for the detached accessory building. Signage is not allowed upon the detached accessory building.

## SUPPLEMENTAL USE REGULATIONS

- (d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.
- (e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.
- (f) No home occupation shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
2. Employees: The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.
3. Extent of Use: For all residential and agricultural zoning districts, the lesser of 25% of the floor area of the dwelling or 400 square feet may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.
4. Signage: Each home-based business shall be permitted to have one wall sign not to exceed four square feet in area.
5. Traffic Generation and Parking
- (a) Deliveries or service by commercial vehicles or trucks rated at fourteen tons or more gross empty weight is prohibited for any home-based business located on a local street.
- (b) Parking needs generated by a home-based business shall be satisfied with off-street parking. No more than one vehicle used in connection with any home occupation shall be parked on the property. Such parking shall not be located in a required front yard. No more than two on-street parking spaces shall be used by the home occupation at any one time.
6. Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:
- (a) Animal hospitals.
- (b) General retail sales.
- (c) Mortuaries.
- (d) Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses except with a Special Use Permit.
- (e) Stables or kennels.
- (f) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

## SUPPLEMENTAL USE REGULATIONS

### 11.614 SMALL AND COMMERCIAL WIND ENERGY CONVERSION SYSTEMS

*(Amended by Ord. 13-11; 9/17/13)*

1. **Intent:** In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Waverly, 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 Waverly recognizes that this is an emerging technology and that new means of collecting wind energy, such as, 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.

#### **Types of Wind Energy Systems:**

**A. Small Wind Energy Conversion System - (SWECS)** – A wind energy conversion system which has a rated capacity of up to Twenty-Five (25) kilowatts, as per “Net Metering provisions, 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 Waverly Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*

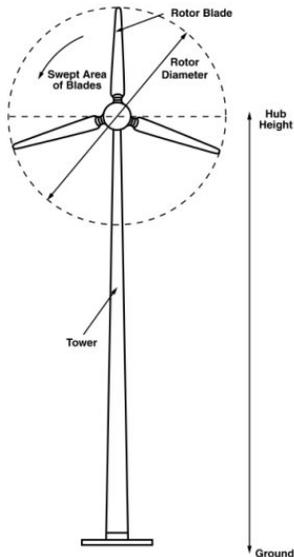
**B. Commercial Wind Energy Conversion System – (CWECS)** A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, who’s main purpose is to supply electricity to off-site customers.

#### **Definitions:**

**A. Aggregated Project** – Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual 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 included as part of the aggregated project.

**B. Fall Zone** – The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

## SUPPLEMENTAL USE REGULATIONS



C. **Feeder Line** – Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of 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 generation 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 purposes of wind energy conversion 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. (see Diagram #1)

H. **Shadow flicker** – Strobe effect that occurs when sun is horizontal to rotor blades, which causes 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 Conversion 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.

## SUPPLEMENTAL USE REGULATIONS

M. **Wind Turbine Generator** – The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

### 2. **Small Wind Energy Conversion 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 its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties. **To be used in conformance with Nebraska State Statutes, 70-2001 through 70-2005, regarding Net Metering.** *(25 Kilowatt limit approved by the Waverly Planning Commission to increase to a maximum of 100 Kilowatts 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 an approved **Special Use Permit** to be issued in the “AG”, “RR”, “R-1” to “R-4”, “MX”, “LC”, “CC”, “DC”, “GC”, “BP”, “LI” and “GI” Zoning Districts.
3. SWECS shall maintain a minimum setback distance from any property line of one (1.0) times the total system height of the windmill for non-participating property owners. Adjoining property owners 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 one 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 WECS be located within any required setback or in any front yard area.
6. Turbines and towers shall be of tubular design, or other design approved by the City of Waverly, 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.

### SUPPLEMENTAL USE REGULATIONS

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 a 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 re-graded and re-vegetated to minimize environmental impacts.
13. A SWECS application must include an agreement that addresses decommissioning and abandonment of the 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:
  - ❖ Site boundary;
  - ❖ Adjacent public right-of-ways;
  - ❖ Existing structures;
  - ❖ Proposed small wind energy system and accessory structures; Adjacent ownership and existing residences;
  - ❖ Any overhead utility lines.
2. A report from a licensed engineer containing:
  - a. Small wind system specifications including manufacturer and model; rotor diameter, tower height, tower type (freestanding or guyed);
  - b. Documentation to establish that the tower has sufficient structural integrity for the proposed 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, Lancaster County Assessor's Office, and City of Waverly Zoning Administrator, signifying utility service is approved.
5. Require proof of insurance on application.

## SUPPLEMENTAL USE REGULATIONS

### 3. Commercial Wind Energy Conversion System – (CW ECS)

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.

Commercial Wind Energy Conversion Systems 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 CW ECS 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 one through 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" Zoning District.
3. If an aggregated project, setbacks from multiple entities (turbines) shall be one and one-tenth (1.1) times the height of the total system.
4. Each CW ECS location must have a 911 address.
5. CW ECS 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; and
  - b) Projections of the "shadow flicker" on any existing structures located off the property on which the CW ECS will be constructed and the extent and duration of the shadow flicker on these existing structures.
6. CW ECS 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 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 highway right-of-way.
8. In no case shall a WECS be located within any required setback or in any front yard area.

#### SUPPLEMENTAL USE REGULATIONS

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 Federal Aviation Administration and in which event, such light 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 night time. Light system must be maintained and working at all times.
13. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

#### SUPPLEMENTAL USE REGULATIONS

14. A Meteorological Tower is permitted by a **Special Use Permit** for the purposes 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.

#### Application Requirements

The applicant for a Special Use Permit for construction of a CW ECS shall file an application with the City of Waverly 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 CW ECS.
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 within a five hundred (500) foot radius on site or offsite of the proposed CW ECS;
5. Location of any overhead utility lines on the property;
6. Location of all known communications towers within two (2) miles of the proposed CW ECS
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 Lancaster County Register of Deeds Office for each property involved in the CW ECS.
10. Provide a map illustrating all transmission lines connecting to the Substation.
11. Copy of Agreement or Notification of Compliance Letter between any Airport Authority and the Applicant.

## SUPPLEMENTAL USE REGULATIONS

- 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 limitations due to public health and safety risks 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 materials;
  8. Protecting exposed soil;
  9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
  10. Maintenance of erosion controls throughout the life of the project.
- D. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
  2. Critical habitat and habitat conditions;
  3. An avian study based on the US Fish and Wildlife Services "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines"
- F. Standard drawings of the structural components of the CWECS, including structures, tower, base, and footings.
- G. Certification by a registered engineer that:
1. There is a substantial need for the proposed use or CWECS, one hundred (100) kW or greater;
  2. All applicable local, state, and federal building, 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 Lancaster County;
  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; and

## SUPPLEMENTAL USE REGULATIONS

6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

### Construction and Operations

- 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); Land Owner(s); CWECs Owner(s); Township Representative(s), Highway Superintendent and/or Zoning Administrator. The survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's 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 wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.

## SUPPLEMENTAL USE REGULATIONS

### Safety Measures

- A. Each CW ECS 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 CW ECS installation. CW ECS 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 CW ECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
- D. Any CW ECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.
- E. The CW ECS 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 part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CW ECS shall be warranted against any system failures reasonably expected in severe weather operation conditions

### Discontinuation and Decommissioning.

- A. CW ECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City of Waverly Zoning Administrator outlining the steps and schedule for returning the CW ECS to service. All CW ECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CW ECS.
- B. Each CW ECS shall have a decommissioning plan outlining the anticipated means and costs of removing CW ECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates 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.

## SUPPLEMENTAL USE REGULATIONS

### Noise

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

### 11.615 Supplemental Use Regulations: Temporary Uses (Amended by Ord. 11-07, 4/5/11)

#### 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, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within a "GC" General Commercial District or more intensive zoning district.  
*(Amended by Ord 13-11; 9-17-13)*
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 and related storage units:*(Amended by Ord. 08-10; 8-4-08)*
  - a. Located on the construction site itself and shall be removed within two weeks of receipt of the certificate of occupancy.
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 in the LI District, 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.

## SUPPLEMENTAL USE REGULATIONS

(c) Hours of operation do not exceed 12 hours per day.

(d) The duration of the plant's operation does not exceed 180 days.

10. Portable storage units for on-site storage: *(Established by Ord. 08-10; 8-4-08)*
- a. Number, Duration and Removal:
    - 1.) No more than one portable storage unit per site.
    - 2.) Storage unit shall be no larger than eight (8) feet wide, sixteen (16) feet long and eight (8) feet high.
    - 3.) No portable storage unit shall remain on site in a residential district in excess of thirty (30) consecutive days during a one-year period. The building official may permit placement of portable storage container on a residential property for more than thirty days, subject to building setback requirements, provided that the property owner has a valid building permit or can demonstrate that extenuating circumstances exist to justify the extension. Extenuating circumstances include, but not limited to a disaster such as a tornado, flood or fire.
    - 4.) Under no circumstances should a portable storage container be defined or allowed to become an accessory structure or use on the site.
  - b. Placement:
    - 1.) Portable storage units are to be placed only in driveway or back yard and be set back a minimum of ten (10) feet from the front property line or five (5) feet from the rear property line.
  - c. Signage:
    - 1.) All portable storage containers must include a sign not to exceed two (2) square feet which is clearly visible from the right of way which includes the container identification number, date of placement on the property, date that removal is required, and a local or toll free number of the storage container company.
  - d. Allowed Use:
    - 1.) The Zoning Administrator shall allow portable storage units only upon issuance of a permit. The Governing Body shall set the fee for such permit by resolution.
11. Roll-off unit: *(Established by Ord. 08-10; 8-4-08)*
- a. Used only in conjunction with construction, remodeling, or demolition of structure, or for large scale clean up of a site.
  - b. Its use shall be temporary and used expressly for the collection of construction debris and at no time shall sanitary waste be disposed of in unit.
  - c. Placement of roll-off unit shall be on property site or driveway. Roll-off units shall not be placed in streets.
  - d. Allowed in conjunction with construction activities requiring a building permit or upon issuance of a temporary permit by the Zoning Administrator for uses not requiring a building permit such as a minor remodeling project.
12. 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.

## SUPPLEMENTAL USE REGULATIONS

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 and shall not exceed a time period of one (1) year. *(Amended by Ord 13-11; 9-17-13)*

4. Decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

# 7

### ARTICLE SEVEN

#### SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

##### **11.701 Purpose**

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements and 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 Ordinance and provide for specific areas of exception.

##### **11.702 Required Street Frontage**

Except as permitted below, any lot used in whole or part for residential purposes shall provide a minimum frontage of 20 feet along at least one public street, or shall possess an exclusive, uninterrupted private easement of access or right of way of at least 20 feet wide to a public street. There shall not be more than one single-family housing unit for such frontage or easement. A common easement of access at least fifty feet in width may be provided for two or more single-family units or for one or more duplex, two-family, townhouse, or multiple-family housing units.

##### **11.703 Lot Size Exceptions**

In any district permitting residential use types, a single-family or duplex use type may be located on any lot or plot of official record as of the effective date of this Ordinance, regardless of its area or width, but subject to the following requirements:

- a. The sum of the widths of the side yards of such lot shall be the lesser of those required by the district regulations or 25% of the width of the lot. No single side yard shall be less than 10% of the width of the lot.
- b. The depth of the rear yard of such lot need not exceed 20% of the depth of the lot, but shall not be less than 20 feet.
- c. If two or more such adjacent lots are combined under single ownership, the resulting combined lots shall be treated as a single lot for purposes of applying these setback requirements.

##### **11.704 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. Encroachments on Required Yards

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

1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three 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.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

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 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 structures are subject to all site development regulations of its zoning district, except as provided below: *(Amended by Ord. 02-07, 3-4-02; Ord. 04-02, 4-19-04; Ord. 04-10, 9-7-04; Ord. 11-06, 4-5-11)*

(a) Side Yards: The minimum side yard setback for an accessory structure shall meet the minimum side yard setback for the principal building of the zoning district. An accessory structure may be located a minimum of five feet from the side lot line of the property if it is located between the rear building line of the principal building and the rear property line.

Exception: An accessory structure, with a floor area of no greater than eighty square feet, may be located a minimum of three feet from the side lot line of the property, if it is located between the rear building line of the principal building and the rear property line. Architectural projections shall not be closer than 2 feet to the lot line.

(b) Front Yards: No accessory structure may be located between the front building line of the principal building and the front property line.

(c) Rear Yard: The minimum rear yard setback for accessory structures shall be 5 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory structure is a garage with a vehicular entrance door that is directly oriented toward an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory structure shall be located within any easement or right-of-way along the rear property line.

Exception: An accessory structure, with a floor area of no greater than eighty square feet, may be located a minimum of three feet from the rear lot line of the property, if it is located between the rear building line of the principal building and the rear property line. Architectural projections, including eaves, shall not be closer than 2 feet from the lot line.

(d) Maximum Size: The number of accessory structures for a residential zoned district shall be limited to no more than two accessory structures per residence, except for lots one-half acre or more in which case up to three accessory structures per residence may be permitted. The maximum total floor space of all attached and detached garages and storage buildings shall not exceed the smaller of 2000 square feet or the square footage contained in the footprint of the principal structure. The maximum building coverage for all structures on a residential lot shall not exceed the limits specified in Table 4-3. All accessory structures on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not occupy more than 30% of any required rear yard except for irregular size lots that shall comply with the maximum building coverage for the specific zoning.

(e) Height: The height of an accessory structure shall not exceed the height of the principal structure on the lot. Any accessory structures located within 15' of the property line shall have a maximum height of 15', if placed more than 15' away from any side or rear property line, the

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

structure can have a maximum height of 20'. The maximum height of any accessory structure shall not exceed 20 feet.

(f) Foundations: All accessory structures shall be built with a permanent foundation system that will keep the structure securely fastened in-place. Any accessory structure not built on a permanent foundation is considered a temporary structure, and is not allowed.

(g) Footings: Footings that extend below the frost line, (36" below grade), are required on all accessory structures except those with a floor area of less than 400 SF.

(h) Separation from Other Buildings: No accessory structure shall be placed within ten feet ~~of any other building from any principal structure, or within five feet of any accessory structure~~ on its own property or any adjacent properties.

Exception: Accessory structures with a floor area no greater than eighty square feet shall be located no less than five feet from the principal structure on its own property.

(i) Attached Accessory Buildings: Any accessory structure physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.

(j) Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory structure must be entirely to the rear of the line of any principal building on such adjacent lot. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

(k) Hazards: Any accessory use which creates a potential fire hazard shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.

(l) No accessory building shall be built upon any lot until construction of the principal building has begun.

(m) Appearance: The exterior appearance of all accessory structures shall be architecturally harmonious with the main residential structure and consistent with the design, scale, and appearance of the primary structure. Materials that are used to construct the accessory structure shall be exterior grade wood or better of similar appearance and durability to that of the principal structure.

(n) Carports: A carport is a covered structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to a wall. Carports that are not architecturally connected to the principal residence by similar appearance and materials are prohibited. This includes but is not limited to metal framed structures with metal roofs, post and beam structures with a low slope roof, or a low slope roof attached to another structure or between structures.

~~(o) Lamp posts with a maximum height of ten (10) feet, and flagpoles up to a maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.~~

Commented [MP1]: Duplicate. See #7 on 7-4

(op) Garage Setbacks: Any garage that fronts on a public street must be set back at least 25 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

7. Lamp posts with a maximum height of ten (10) feet, and flagpoles 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

#### 1. Setbacks on Built-Up Blockfaces

These provisions apply if thirty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

(a) 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.

(b) 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.

(c) 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 blockface.

(d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

#### 2. Corner Lots

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

### 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. Satellite Antennas

1. Each lot-dwelling unit shall have no more than one satellite antenna.

2. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.

3. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:

(a) Such antennas shall be located no less than ten feet from the property line of an adjacent property line.

(b) The maximum height shall be 15 feet and the maximum diameter shall be 11 feet.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

(c) Each antenna shall be screened by a six-foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

### g. Vision Clearance Zones

Except in the DC District, no structure, including a fence, shall be built to a height of more than ~~three-feet~~thirty inches (30") above the established curb grade on the part of the lot within ~~asthe~~ vision clearance zone. The vision clearance zone shall be a triangle measured from the point of intersection of the centerline of the streets to a point 90 feet in each direction from the intersection along such centerlines. At the intersection of major streets, the 90-foot distance shall be increased to 120 feet. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection. See 11.707d for Sight Obstruction at Street Intersections.

## 11.705 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 be built to any height in accordance with existing and future ordinances.

### b. Amateur Radio Towers and Federal Communication Commission Pronouncements

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.

2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Board of Adjustment may grant a Conditional-Special Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).

3. Such radio towers shall not be located within any front yard of the primary use.

### c. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

### d. Communications Towers

Communications towers, when operated by a federally licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators. Such towers are subject to the requirements of Section 11.610a.

### e. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are exempt from the height restrictions of the base district but is subject to the regulations of Section 11.610c.

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### f. Special Use Approvals

The Board of Adjustment may grant an exception from the height limit for a zoning district for a Special Use as part of its approval of that use. The limit or extent of this exception shall be a specific part of the special use permit.

### g. 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 Waverly.

## 11.706 Exceptions to Site Development Regulations for Creative Subdivisions

### a. Purpose

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for creative subdivisions, the city may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to creative subdivisions.

### b. Site Area Per Unit

1. Unless otherwise provided, the site area per unit for a creative subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

### c. Perimeter Yards

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
2. Structures must maintain a 20-foot minimum side yard setback from any property line that forms the boundary of the development.

### d. Area and Yards for Individual Lots

1. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Waverly's efforts to protect public health, safety, welfare, community character, property values and aesthetics.
2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from that public street or private way.

### e. Coverage and Landscaping Requirements

Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

### 11.707 Fence Regulations

#### a. Location Restriction

~~1. Unless otherwise provided by this Ordinance or other sections of the Waverly Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines or tract outside the surveyed lot lines.~~

2. No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

#### b. Applicability

The regulations contained in Sections 11.707(b) through 11.707(j) apply to all fences with a height above grade of 30 inches and over.

#### c. Required Openings

Unless otherwise provided by this Ordinance or other sections of the Waverly 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.

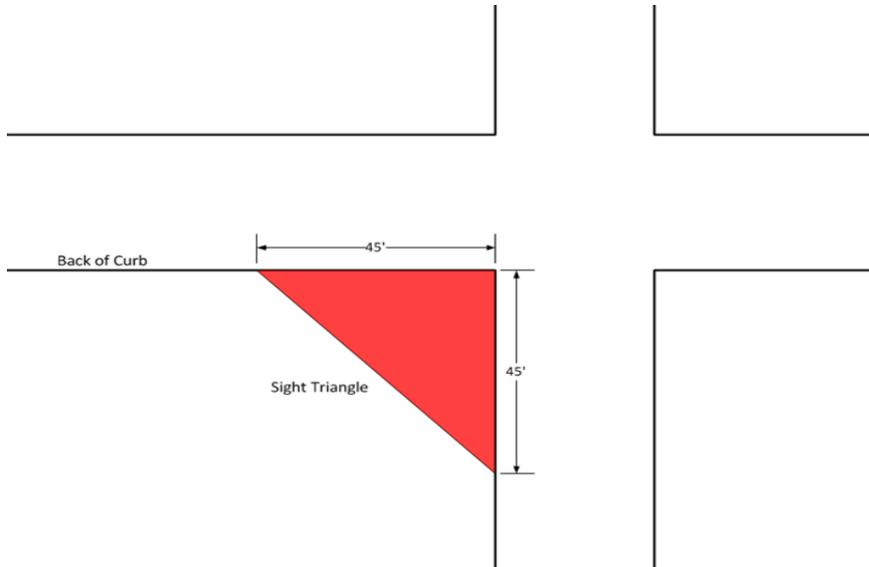
#### d. Sight Obstruction at Street Intersections (*Amended by Ord. 15-11, 12-8-15*)

No fence or hedge permitted or required by this article or other sections of the Waverly Municipal Code shall be built to a height of more than thirty inches (30") above the established curb grade on the part of the lot within the defined intersection sight triangle. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection. The intersection sight distance triangles are established as:

1. For major controlled intersections (e.g. stop, yield, signals etc.) and intersections with collector streets and arterial streets, the intersection sight distance triangles shall be defined as per the AASHTO Policy on Geometric Design of Highways and Streets, latest edition. For all other minor and uncontrolled intersections (residential streets) the intersection sight distance triangles on each leg of an intersection shall be defined as a triangle formed by the adjacent curb lines of intersecting streets and the line joining points 45 feet on each side line from their point of intersection (as shown below).

**Commented [MP2]:** This should be assumed that a homeowner can't build on properties that said homeowner does not have ownership of. Any property line disputes should be a civil matter between property owners. City is not responsible for identifying existing interior private property lines. City may identify property lines adjacent to public right of way.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS



2. At intersections of a sidewalk and alley or non-residential driveway or parking lot access, the intersection sight triangle is defined as a triangle whose legs extend 10 feet back from the sidewalk along the alley or driveway, and 20 feet parallel to and along the back of the sidewalk back from the intersecting alley or driveway.

3. At intersections of a sidewalk and residential driveway, the intersection sight triangle shall be defined as a triangle whose legs extend 15 feet back from the sidewalk along the driveway, and 20 feet parallel to and along the back of the sidewalk back from the intersecting driveway.

c. Facing

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

f. Effect on Adjacent Properties and Drainage

1. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

2. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

g. Fence Construction on Utility Easements

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request of the owner of the easement whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

### h. Protective Fences around Swimming Pools, Spas, and Hot Tubs

~~A fence with a minimum height of five feet and compliant with the terms of this section shall be required around public or private swimming pools. Any Pool (in-ground or Above Ground), Spa and or Hot tub that has a depth greater than 24", shall be required to have the following: A barrier comprised of a fence or wall, in compliance with this section, with a minimum height of 4'. The fence shall be constructed so as not to have any openings large enough to allow a 4" sphere to pass through. All gate and door openings shall be of self-closing and self-latching type. The side of the dwelling or accessory building may be used as part of such enclosure.~~

~~Exception: Spas or Hot Tubs equipped with a safety cover which complies with ASTM F 1346 shall be exempt from the provisions of a barrier requirement~~

**Commented [MP3]:** 4' barrier is the required standard per the International Code Council. 4' barrier is what has been enforced. Hot tubs typically have a locking cover that would make them exempt from the barrier requirement.

### i. Residential Fences

Fences constructed 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 42 inches. The maximum height for any fence outside of a required front yard shall be six feet.
2. **Exception for Street Side Yards:** On corner lots, a fence built parallel to the street side yard line but set back 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 ~~of~~ 50 percent ~~of~~ closed construction.
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 Waverly; and if such frontage does not provide primary access to the property.

~~5. **Exception for Separate Districts:** A fence separating a residential lot from a commercial or industrial lot may be a height of 8'.~~

~~5-6. **Materials:** Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots. Other materials may be used if approved by the Building Inspector.~~

### j. Civic, Office, Commercial, and Industrial Fences

Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts shall be eight feet.
3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Waverly.
4. Barbed wire shall not be used in the construction of any fence outside of the GI General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Waverly.

### 11.708 Outdoor Lighting (Established by Ord. 10-04, 3/1/2010)

a Purpose:

This section is intended to restrict or control the use of outdoor lighting devices and techniques which contribute to overall environmental glare, light trespass, public safety, and light pollution; affect the quality of the outdoor nighttime environment; and have a detrimental effect on astronomical observations.

b Alternative material:

This section is not intended to prevent the use of materials or techniques not specifically mentioned in this section, provided that such alternative is approved by the Zoning Administrator or the Public Works Director along public rights-of-way.

c Lighting terms.

1. **Outdoor light fixtures** shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include but not be limited to search-, spot-, or floodlights for buildings and structures, recreational areas, parking lots, landscape lighting, signs, street lighting, and display and service areas.
2. **Full Cutoff** shall mean a light fixture that cuts off all upward transmission of light.
3. **Fully shielded** shall mean fixtures that are shielded or designed in such a manner that light emitted by the fixture, either directly by the lamp or indirectly by the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted which prevents a line of sight to the bulb when viewed from another property.
4. **Filtering** shall mean that light emitted by the lamp passes through a glass, acrylic, or translucent enclosure. Quartz glass does not meet the requirement of filtering.
5. **Lumens** shall mean measure of brightness of the illumination exiting a bulb.
6. **Spotlight** shall mean a luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

#### SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

7. **Flood light** shall mean a luminaire or bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.
8. **Glare** shall mean discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.
9. **Horizontal (or vertical) foot-candles** shall mean the amount of light striking a vertical or horizontal plane.
10. **Light source** shall mean the bulb and lens, diffuser, or reflective enclosure.
11. **Light trespass** shall mean light projected onto a property from a fixture not located on that property. No line of sight to a glaring light source is permitted from 5 feet or more inside a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

d. Requirements for shielding and filtering.

Requirements for shielding and filtering of light sources are set forth in Table 7-1 listed below:

**SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS**

<b>Table 7-1 Shielding and Filtering Requirements for Light Sources</b>		
<b>Fixture Lamp Type</b>	<b>Shielded</b>	<b>Filtered</b>
Low-pressure sodium	Fully	None
High-pressure sodium	Fully	None
Metal halide (Note 1)	Fully	Yes (Note 3)
Fluorescent	Fully (Note 4)	Yes (Note 5)
Quartz (Note 2)	Fully	None
Incandescent greater than 100W	Fully	None
Incandescent 100W or less	None	None
Mercury vapor	Prohibited	Prohibited
Fossil fuel	None	None
Glass tubes filled with inert gases	None	None
Other sources	By approval of the Zoning Administrator and Public Works Director	By approval of the Zoning Administrator and Public Works Director
NOTES:		
Note 1: Should be in enclosed luminaries.		
Note 2: Not considered an incandescent light source.		
Note 3: Most glass, acrylic, or translucent enclosures meet filtering requirements.		
Note 4: Outdoor signs constructed of translucent materials with internal lighting do not require shielding.		
Note 5: Warm, white, natural lamps are recommended.		

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

e. Exemptions:

The following installations are exempt from the provisions of this section:

1. Nonconforming fixtures:

- a.) Luminaries existing immediately prior to the effective date of this Section which are located on single family residential property adjacent to single family residential property and commercially zoned property adjacent to single family residential property or public ways which are in violation of this section may be declared a public nuisance after a complaint filed by an adjacent residential property owner of the City if they meet one of the following criteria:

- 1.) Exceed one (1) horizontal foot-candle at the property line, exclusive of street lights and other exterior lighting sources at the residential property line; or
- 2.) Directs a beam of light to a point beyond the property line; or
- 3.) Creates unreasonable glare because the fixture is not a cut-off or shielded style of luminaire.

- b.) If it is determined that such non-conforming luminaries are unlawful or a nuisance, then such luminaries shall be altered by either replacement with conforming luminaries, shielding, landscaping, berms or directional modifications or controls within sixty (60) days of receiving a written notice of violation from the City. The 60 day cure period shall commence upon receipt of official notice by the property owner of violation of this Section.

2. Fossil-fuel lighting, such as fixtures using natural gas combustion as a light source.

3. Ornamental or thematic lighting in any Zoning District if specifically approved by the Planning Commission. The maximum height of any such ornamental light shall be 16 feet.

4. Construction or emergency lighting provided that such lighting is removed on completion of the construction project or emergency.

5. Temporary event lighting, such as searchlights, subject to issuance of a temporary permit by the Chief Building Official for a specific duration of time.

6. Exemptions granted by the Zoning Administrator and Public Works Director for special conditions, upon issuing a written finding that conditions exist that make conforming fixtures inadequate to the specific task.

f. Interpretation:

When enforcing the provisions of this Section, the City shall enforce such provisions in a non-arbitrary and non-discriminatory manner and such enforcement shall be interpreted by the City such that ordinary people can understand which acts are prohibited and which acts are allowed by this Section.

g. Inclusion on Permit Applications:

#### **SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS**

For all building projects other than single family residential, lighting plans shall be submitted as part of building, or sign permits and shall be reviewed as part of the normal review process for such permits.

#### **11.709 Appeals**

Denial, revocations, 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 11.1208 through 11.1210.

# 10

## ARTICLE TEN

### SIGN REGULATIONS

#### 11.1001 Purpose

The Sign Regulations provide standards for communicating information in the environment of the City of Waverly 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.

#### 11.1002 Definition of Terms *(Amended by Ord. 07-13; 11-5-07)*

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

1. 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.
2. Attached Sign: A sign which is structurally connected to a building or depends upon that building for support
3. Auxiliary Design Elements: Terms which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.
4. 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.
5. Banner: Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
6. Billboard: An outdoor advertising sign that displays products or services that are not typically available at the location of the sign site.
6. Building Marker: An historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
7. Business Center Identification Sign: A sign which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.
8. 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.
9. Canopy Sign: A sign which is attached or made an integral part of a canopy.
10. Clearance: The distance from the bottom of a sign face elevated above grade and the grade below.

## SIGN REGULATIONS

11. Detached Sign: A sign which is self-supporting and structurally independent from any building.
12. Directional Sign: A sign which serves only to designate the location or direction of any area or place.
13. Double-Faced Sign: A sign consisting of no more than two parallel faces supported by a single structure.
14. Electronic Information Sign: Any sign intended primarily to provide information of general community interest, including time, temperature, and other atmospheric conditions, date, news, traffic control, or commercial messages.
15. Frontage: The length of a property line of any one premises abutting and parallel to a public street, private way, or court.
16. Ground Sign: A detached sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than 3 feet.
17. Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs. Illumination techniques referred to by these Regulations include:
  - (a) Bare Bulb: Illumination of signs using unshielded bulbs.
  - (b) Direct Illumination: Illumination of signs through flood lights whose luminous surface is visible to the normally located observer.
  - (c) Flame: Use of open flame or torches as a light source.
  - (d) Flashing: Use of an intermittent light source, including the illusion of intermittence through animation or other external light sources. Electronic information signs are excluded from this definition, except for any flashing mode of these signs.
  - (e) Indirect: Use of a light source whose luminous surface is not visible to the normally located observer.
  - (f) Internal: Use of a light source concealed or contained within the sign, and visible by shining through a translucent surface.
  - (g) Neon or gas tube: Use of a light source supplied by passing electricity through a tube containing neon or other gas, bent to form letters, symbols, and other shapes.
18. Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.
19. Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.
20. 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.
21. Moving Sign: A sign which conveys its message through rotating, changing, or animated elements.
22. Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.

## SIGN REGULATIONS

23. Off-Premise Sign: A sign which directs attention to a business, profession, commodity, or service offered on a property other than that on which the sign is located.
24. Pole Sign: A 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.
25. 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.
26. 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.
27. Premises: A tract of one or more lots or sites which are contiguous and under common ownership or control.
28. Projecting Signs: A sign other than a wall sign that is attached to and projects from a building face.
29. Residential Sign: A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.
30. 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.
  - (a) 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.
  - (b) Above-peak Roof Sign: A roof sign positioned above the peak of a roof or above a parapet or cornice.
31. 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.
32. Sign Type: A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.
33. 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.
34. 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.
35. Wall Sign: A sign attached to and parallel with the side of a building.
36. Window Sign: A sign painted on or installed inside a window for the purpose of viewing from outside the premises.

## SIGN REGULATIONS

37. 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 required by the site development regulations.

## SIGN REGULATIONS

### 11.1003 General Sign and Street Graphics Regulations *(Amended by Ord. 22-03; 5-24-22)*

#### a. Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the City of Waverly must comply with the provisions of this chapter and of other relevant provisions of the City of Waverly's Municipal Code; and relevant building codes including the:

International Building Code.

International Plumbing Code.

National Electrical Code.

Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways (Nebraska Department of Transportation)

#### b. Resolution of Conflicting Regulations

This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Waverly'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 trees.
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 or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
4. Signs which 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 date of abandonment.
6. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers, except as provided below.
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.

## SIGN 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 32 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 which give traffic, directional, or warning information.
4. Seasonal decorations for display on private or public property.
5. On-premise construction signs.
6. One temporary sign per zoned lot for grand openings or special events, provided that such sign remains in place for a maximum of seven days.
7. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
8. Residential signs under 2 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. Temporary and Civic Signs

1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
  - (a) Such signs are subject to the permit procedures set forth in this section.
  - (b) The size of such signs does not exceed the limitations set forth in Table 10-3.
  - (c) No more than one such sign is permitted at any single premises.
  - (d) Temporary or portable signs may be present at any single premises for a maximum of 30 days per year.
2. Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements:
  - (a) Such signs are subject to the permit procedures set forth in this section.
  - (b) Such signs are installed no earlier than 30 days before the date of the event or election and removed no later than 7 days after the date of the event or election.

## SIGN REGULATIONS

(c) The maximum size of such signs is 10 square feet when located in any residential and LC Limited Commercial zoning district; and 100 square feet in any other zoning district.

f. Bufferyards

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

g. 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.

### 11.1004 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 roof line.
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 in the DC District shall be as follows:
  - (a) 2 feet over public sidewalks less than 12 feet wide;
  - (b) 3 feet over public sidewalks 12 feet wide or more, or over private property.

No projecting sign in any other district may project by more than 24 inches into a required setback.

## SIGN REGULATIONS

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) 10 feet outside of parking areas or driveways, but within three feet of such areas; or within 50 feet of the right-of-way lines formed by a street intersection;
  - (c) 14 feet over parking lots;
  - (d) 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) 10 feet for locations outside of parking areas or driveways, but within three feet of the edge of such areas; or within 50 feet of the right-of-way lines formed by a street intersection.
  - (c) 14 feet over parking lots;
  - (d) 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.

### e. Billboards

Billboards, where permitted, are subject to the following regulations:

1. A Special Use Permit shall be required to erect a Billboard

## SIGN REGULATIONS

2. Billboards shall only be permitted in the Interstate Corridor Overlay District and located within three-hundred feet (300') of the interstate right-of-way.
3. The sign face of a billboard shall not be greater than fourteen feet (14') in vertical dimension or greater than thirty feet (30') in horizontal dimension and the maximum sign face area shall not exceed six hundred seventy-two (672) square feet.
4. A maximum of two (2) signs back to back shall be permitted per sign billboard structure.
5. Billboards adjacent to the interstate or federal highway must comply with all state and federal advertising regulations (see 11.1003).

### 11.1005 General Regulations: Other Design Elements

#### a. Illumination

1. 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

1. 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.

### 11.1006 Specific Regulations ~~For~~ Zoning Districts

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

### 11.1007 Method of Measurement for 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

## SIGN REGULATIONS

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 is 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.

### 11.1008 Permitted Sign Types by Zoning Districts

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

### 11.1009 Auxiliary Design Elements

Table 10-2 sets forth auxiliary design elements permitted within each zoning district of the City of Waverly.

### 11.1010 Maximum Permitted Sign Area

Table 10-3 sets forth the maximum sign area permitted within each zoning district of the City of Waverly.

### 11.1011 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.

### 11.1012 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. Maintenance of Valid Sign Permit

The owner of a property containing signs requiring a permit under these regulations shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.

c. Sign Permit Applications

## SIGN REGULATIONS

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

d. Application 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.

e. Action

Within ten working days 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 with the requirements of this Article.

f. 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.

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.

### 11.1013 Nonconforming Signs

- a. All permanent signs in place and lawfully established on the effective date of these Regulations shall be considered as legal nonconforming signs. The copy of such a sign may be changed from time to time, provided that the sign area shall not be enlarged beyond the sign area in existence on the effective date.
- b. Any nonconforming sign which 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.
- c. For business centers pre-existing on the effective date of these Regulations which do not conform to the total permitted sign area provisions of this Article, individual signs may be replaced, modified, or substituted prior to fifteen years from the effective date of this Ordinance. 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.

### 11.1014 Discontinuance of Nonconforming Signs

Within any zoning district, all on-premise signage must comply fully with the provisions of these Regulations, unless otherwise provided, within fifteen years of the effective date of these Regulations.

**SIGN REGULATIONS**

**Table 10-1: Permitted Signs by Type and Zoning Districts**

Sign Types	AG	RR	R-1	R-2 R-3	R-4	MH	MX	LC	CC	DC	GC	BP	LI	GI
<b>Detached Signs</b>														
Residential	P	P	P	P	P	P	P	P	P	N	N	N	N	N
<u>Billboard</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>
Business Identification	P	P	P (C)	P	P	P	P	P	P	P	P	P	P	P
Incidental	P (C)	P (C)	P (C)	P (C)	P (C)	P	P	P	P	P	P	P	P	P
Ground Pole	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	N	N	N	N	N	N	N	N	P	N	P	N	N	N
<b>Attached Signs</b>														
Awning	N	N	N	P	P	P	P	P	P	P	P	P	P	P
Banner	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Building Marker	P	P	P	P	P	P	P	P	P	P	P	P	P	
Canopy	N	N	N	N	N	P	P	P	P	P	P	P	P	P
Business Identification	P	P (C)	P (C)	P	P	P	P	P	P	P	P	P	P	P
Incidental	P (C)	P (C)	P (C)	P	P	P	P	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	P	P	P	P	P	P	N	P	P
Projecting	P	N	N	N	N	N	P	N	P	P	P	N	N	N
Roof, Integral	N	N	N	N	N	N	N	N	P	P	P	P	P	P
Roof, Above Peak	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Wall	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Window	N	N	N	N	N	N	P	P	P	P	P	P	P	P
<b>Miscellaneous</b>														
Flag	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Portable (On-Premise)	N	N	N	N	N	N	N	N	N	N	N	N	N	N

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

## SIGN REGULATIONS

Table 10-2 Permitted Signs by Type and Zoning Districts

Sign Types	AG	RR	R-1	R-2 R-3	R-4	MH	MX	LC	CC	DC	GC	BP	LI	GI
<b>Design Element</b>														
<b>Illumination</b>														
Indirect	P(C)	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P	P	P	P
Direct	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Internal	P(C)	P(C)	P(C)	P	P(C)	P	P	P	P	P	P	P	P	P
Neon	N	N	N	N	N	N	N	N	P	P	P	N	P	P
Flashing	N	N	N	N	N	N	N	N	P	P	P	N	P	P
Flame	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Bare Bulb	N	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>Other</b>														
Electronic Information	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Moving	N	N	N	N	N	N	N	N	N	N	P	N	N	P
Rotating	N	N	N	N	N	N	N	N	N	N	P	N	N	P

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

**SIGN REGULATIONS**

<b>TABLE 10-3: MAXIMUM PERMITTED SIGN AREA FOR ZONE LOT BY ZONING DISTRICT</b>									
<i>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:</i>									
<b>Zoning District</b>	<b>AG</b>	<b>RR R-1 R-2</b>	<b>R-3 R-4 MH</b>	<b>MX LC</b>	<b>CC</b>	<b>DC</b>	<b>GC</b>	<b>BP</b>	<b>LI GI</b>
<b>Square Feet of Signage per Linear Foot of Frontage</b>	N/A	N/A	N/A	.50	1.0	1.0	2.0	1.0	2.0
<b>Maximum Total Square Feet</b>	Note 1 <a href="#">Note 6</a>	Note 2	Note 3	Note 4	200 Note 4	200	300 Note 5	300 Note 5	400 Note 5 Note 6

**Table 10-3** (Amended by Ord. 07-13; 11-5-07)

**Note 1:**

200 square feet for civic or commercial uses, 2 square feet for residential uses.

**Note 2:**

Maximum sign size is 100 square feet for project identification signs; 32 square feet for civic uses, 2 square feet for residential uses.

**Note 3:**

Maximum sign size is 32 square feet for civic uses, 100 square feet for project identification signs for multi-family or mobile home developments and for non-residential uses when permitted, 2 square feet for residential uses, including home occupations.

**Note 4:**

On premises with primary residential use, maximum sign size is 75 square feet for project identification signs for multi-family developments, 2 square feet for residential uses, including home occupations.

**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.

**Note 6:**

One ~~detached sign~~[Billboard](#) for civic or commercial use, with a maximum area of 672 square feet (14' Height x 48' Width), is located in the Interstate Corridor Overlay District, and is within 300 feet to the Interstate, may be permitted by Special Use Permit.

**SIGN REGULATIONS**

<b>TABLE 10-4: PERMITTED SIGNS BY NUMBERS, DIMENSIONS, AND LOCATION</b>									
<i>Each individual sign shall comply with the regulations for maximum quantity, maximum size, minimum setbacks, and height limits shown in this table:</i>									
<b>Zoning District</b>	<b>AG</b>	<b>RR R-1 R-2</b>	<b>R-3 R-4 MH</b>	<b>MX LC</b>	<b>CC</b>	<b>DC</b>	<b>GC (Note 1)</b>	<b>BP (Note 1)</b>	<b>LI GI (Note 1)</b>
<b>DETACHED SIGNS</b>									
<b>Number Permitted Per Premise</b>	1	1	1	1	N/A	1	N/A	NA	N/A
<b>Per Feet of Frontage</b>	N/A	N/A	N/A	N/A	1 Per 300	N/A	1 Per 200	1 Per 300	1 per 200
<b>Maximum Size* (Sq. feet)</b>	100*	100*	100*	75*	100*	100	150	150	200
<b>Maximum Height (feet)</b>	45	10	10	15	25	25	35	15	35
<b>Front Yard Setback (feet)</b>	25	5	10	10	10	0	5	10	0
<b>Side Yard Setback (feet)</b>	10	10	10	10	5	0	5	5	0
<b>ATTACHED SIGNS</b>									
<b>Maximum Size* (Sq. feet)</b>	100	32*	32*	75	100	100	150	150	200
<b>% of Street Facade</b>	N/A	N/A	N/A	20%	20%	20%	25%	25%	25%

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

**Table 10-4** (Amended by Ord. 07-13; 11-5-07)

**Note 1:** In addition to its total permitted sign area, each premises 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.

## TITLE XV: LAND USAGE

### Chapter

#### 150. BUILDING REGULATIONS

#### 151. ZONING AND SUBDIVISION REGULATIONS

### CHAPTER 150: BUILDING REGULATIONS

### Section

#### *Regulatory Codes*

- 150.01 Building code; adopted by reference
- 150.02 Residential code; adopted by reference
- 150.03 International energy conservation code; adopted by reference
- 150.04 Plumbing code; adopted by reference
- 150.05 Mechanical Code; adopted by reference
- 150.06 Gas piping code; adopted by reference
- 150.07 Existing building code; adopted by reference
- 150.08 Property maintenance code; adopted by reference

#### *Building Permits and Regulations*

- 150.20 Building permits required
- 150.21 Insurance required
- 150.22 Fees
- 150.23 Personal alterations and additions
- 150.24 Duplicate to County Assessor

#### *Moving of Buildings*

- 150.50 Regulations
- 150.51 Deposit
  
- 150.70 Violations; penalty

### **REGULATORY CODES**

#### **§ 150.01 BUILDING CODE; ADOPTED BY REFERENCE.**

(1) To provide minimum regulations governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; the 2018 International Building Code Fourth edition, including Appendices G and J, as

published by the International Code Council, Inc., be and is hereby adopted as the Building Code for the Municipality; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in the following:

Section 101.1 *Insert:* City of Waverly

Section 105.2 *Delete:* Work exempt from permit

1. One-Story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet.
2. Fences not over 7 feet high.

Section 105.2 *Insert:* Work exempt from permit

1. One-Story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 80 square feet.
2. Fences not over 6 feet high.

Section 1612.3 *Insert:* City of Waverly, April 26, 2019

Section 1807.3 *Insert:* Embedded posts and poles. Designs employing posts or poles as columns embedded in earth or concrete are not permitted in areas zoned R-1 through R-4. Concrete footings extending to below the frost line are required for all structures except those with an area of less than 400 square feet.

Section 1809.5 *Insert:* Frost Protection. All buildings subject to conditioned air (heating and cooling) shall have a continuous concrete perimeter all extending to below the frost line and shall have vertical insulation R- value of at least R-5.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Risk Category I, in accordance with Section 1604.5;
2. Area of 400 square feet (37 m<sup>2</sup>) or less; and
3. Eave height of 10 feet (3048 mm) or less

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2012 International Building Code, and that one (1) copy of the Building Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The provisions of said Building Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*) (*Amended by Ord. No. 84-9, 11/19/84, 02-09, 2/18/02; 06-06, 3/6/06; 09-07, 05/04/09; 15-15, 9/8/15*) (*Amended by Ord. No.17-04, 2/28/2017*) (*Amended by Ord. No. 21-03, 6/22/2021*).

## **§ 150.02 RESIDENTIAL CODE; ADOPTED BY REFERENCE.**

(1) To provide for the regulation and controlling of the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses; and providing for the issuance of permits and collection of fees. Each and all of the regulations,

provisions, conditions and terms of the International Residential Code 2018 edition, including Appendices A, B, C, D, G, H, and N, published by the International Code Council on file in the office of the Municipality are hereby referred to, adopted and made a part hereof as if fully set out within this ordinance with the following revisions to these sections:

Section R101.1 *Insert:* City of Waverly

Section R105.2 *Insert:* Work exempt from permit

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 80 square feet.

1.2. Fences not over 6 feet high.

2.3. Sidewalks and driveways on private property.

Section R105.2 *Delete:* Work exempt from permit

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet.

1.2. Fences not over 7 feet high.

3. Decks not exceeding 200 square feet in area, that are not more than 30 inches above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

2.4. Sidewalks and driveways.

**Table R301.2(1) *Insert:***

**TABLE R301.2(1)**

**CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

GROUND SNOW LOAD	WIND SPEED (mph)	SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS
			Weathering	Frost Line Depth	Termite			
30 psf	90 mph	B	Severe	36 inch	Moderate to Heavy	-2	Yes	a)1982, b)2011, c)2011 & 2013

AIR FREEZING INDEX	MEAN ANNUAL TEMPERATURE
1600	50.9

Section R303.3 *Insert:* Bathrooms. Bathrooms, water closet compartments, and other similar rooms shall be provided with a mechanical ventilation system.

Section R313 *Delete:* Automatic Fire Sprinkler Systems (Whole Section & Subsection)

Section P2903.7 *Insert:* Size of water-service mains, branch mains and risers. The size of the water service pipe shall be not less than 1 inch (19.1 mm) diameter.

Section P2903.9.1 *Insert:* Service Valve. Each dwelling unit shall be provided with an accessible main shutoff valve near the entrance of the water service and prior to the water meter. An additional shutoff valve shall be provided immediately following the water meter. Additionally, the water service shall be valved by means of an approved ground key stopcock between the curb and property line at or near the property line.

Section P2906.4 *Insert:* Water Service Pipe. Water service pipe shall conform to NSF 61 and shall conform to the respective standards posted in Table P2906.4. Water service pipe shall be soft temper copper service tubing, Type K, meeting ASTGM B-88, or polyethylene (PE) plastic pipe. Polyethylene (PE) plastic pipe shall meet the standards of ASTM D-2239, and shall have a minimum working pressure of 200 PSI. Fittings for polyethylene (PE) plastic pipe shall be brass, and all joints and fittings shall be double clamped.

Section P2906.5 *Insert:* Water Distribution Pipe. Water distribution pipe shall conform to NSF 61 and shall conform to the respective standard posted in Table P2905.5. Water distribution pipe shall be copper tube, copper pipe or cross-linked polyethylene (PEX) plastic tubing. Cross-linked polyethylene (PEX) plastic tubing shall meet the standards of ASTM 877. Fittings shall be cast and machined from a solid bronze alloy. Sleeves for the press fittings shall be stainless steel.

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Residential Code, and one (1) copy of the Building Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The provisions of said Building Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-901, 19-922 RS Neb.*) (*Amended by Ord. 02/09, 2/18/02; 05-01, 3/7/05; 06-23, 11/6/06; 09-07, 05/04/09; 11-17, 08/2/11; 15-15, 9/8/15*) (*Amended by Ord. No. 21-03, 6/22/2021*).

### **§ 150.03 INTERNATIONAL ENERGY CONSERVATION CODE; ADOPTED BY REFERENCE.**

(1) For regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting, and power systems as herein provided; providing for the issuance of permits and collection of fees therefore, and each and all of the regulations, provisions, penalties, conditions and terms of said Energy Conservation Code 2018 Edition, published by the International Code Council, on file in the Office of the City of Waverly and hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance with the following revisions to these sections:

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Energy Conservation Code, and one (1) copy of the Building Code is on file at the office of the Municipality and is available for inspection at any reasonable time. The provisions of said Code shall be controlled throughout the Municipality and throughout its zoning jurisdiction and made a part hereof as it is fully set out within the ordinance with the following revisions to these sections:

Section 101.1 *Insert:* City of Waverly

Section 108.4 Insert: a Class II Misdemeanor

Section R402.4.1.2 Deleted: Testing

Section R403.3.3 Amended: Duct Testing (Mandatory): Section R403.3.3 of the International Energy Conservation Code is amended to read as follows:

R403.03 Duct Testing Mandatory: Ducts shall be pressure tested to determine air leakage by one of the following methods:

1. Rough-in test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25Pa) across the system, including the manufacturer's air handler enclosure if installed at the time of test. Registers shall be taped or otherwise sealed during the test.
2. Postconstruction test: Total leakage shall be measured with a pressure differential of 0.1 in w.g. (25Pa) across the entire system, including the manufacturer's air handler enclosure. Registers shall be taped or otherwise sealed during the test.

Exceptions:

1. A duct air leakage test shall not be required where the ducts and air handlers are located entirely within the building thermal envelope.
2. A duct air leakage test shall not be required for ducts servicing heat or energy recovery ventilators that are not integrated with ducts serving heating or cooling systems.
3. A duct air-leaking test shall not be required for ducts that are sprayed with closed cell foam.

A written report of the results of the test shall be signed by the party conducting the test and provided to the code official.

**20.14 Section R403.3.5 Amended; Building Cavities (Mandatory):**

Section R403.3.5 of the International Energy Conservation Codes amended to read as follows:

R403.3.5 Building Cavities (Mandatory) Building framing cavities shall not be used as ducts or plenums.

Exceptions: Interior building cavities may be used as ducts or plenums for return air when completely panned and sealed.

**20.14.050 Section R403.6 Deleted; Mechanical Ventilation (Mandatory)**

**20.14.060 Table R402.1.2 Amended; Insulation and Fenestration Requirements by Component.**

Table R402.1.2 of the International Energy Conservation Code is amended to read as follows:

<u>Climate Zone</u>	<u>Fenestration U-Factor</u>	<u>Skylight U-Factor</u>	<u>Glazed Fenestration SHGC</u>	<u>Ceiling R-Factor</u>	<u>Wood Frame Wall R-Value</u>	<u>Mass Wall R-Value</u>	<u>Floor R-Value</u>	<u>Basement Wall R-Value</u>	<u>Slab R-Value &amp; Depth</u>	<u>Space Wall R-Value</u>
1	NR	0.75	0.25	30	13	3/4	13	0	0	0
2	0.40	0.65	.25	38	13	4/6	13	0	0	0
3	0.32	0.55	0.25	38	20 or 13-5h	8/13	19	5/13f	0	5/13
4 except Marine	0.32	.55	0.25	38	20 or 13+5h	8/13	19	10/13	10, 2ft	10/13

5 and 4 Marine	0.30	0.55	NR	49	20 or 13+5h	13/17	30s	13	10,2ft	15/19
6	.30	0.55	NR	49	20+5h	15/20	30	15/19	10,4ft	15/19
7 and 8	.30	0.55	NR	49	20+5h or 13+5	19/21	38g	15/19	10,4ft	15/19

NR=Not Required.

For S1: 1 foot=304.8 mm

a. R-values are minimums. U-factors and SHGC are maximums. Where insulation is installed in a cavity that is less than the label or design thickness of the insulation, the installed R-value of the insulation shall be not less the R-value specified in the table.

b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestrations. Exception: In Climate Zones 1 through 3, skylights shall be permitted to be excluded from glazed fenestration SHGC requirements provided that the SHGC for such skylights does not exceed 0.30.

c. 10/13 means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation on the interior of the basement wall. "15/19" mean R-15 continuous insulation on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. Alternatively, compliance with "15/19" shall be R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulation on the interior or exterior of the home, "13" means furred 2x4 walls with R-13 cavity insulation throughout on the interior of the basement wall.

d. R-5 insulation shall be provided under the full slab area of a heated slab in addition to the required slab edge insulation R-value for slabs, as indication in the table. The slab edge insulation for heated slabs shall not be required to extend below the slab.

e. There are no SHGC requirements in Marine Zone.

f. Basement wall insulation is not required in warm-humid locations as define by Figure R301-1 and Table R301.1

g. Alternatively, insulation sufficient to fill the framing cavity and providing not less than and R-value of r-19.

h. The first value is cavity insulation; the second value is continuous insulation. Therefore, as an example, "13+5" means R-13 cavity insulation plus R-5 continuous insulation.

i. Mass walls shall be in accordance with Section R402.25The second R-value applies where more than half of the insulation is on the interior of the mass wall.

*(Established by Ord. 05-09, 7/18/05; Amended by Ord. 09-07, 05/04/09; Amended by Ord. 11-24, 11/15/11; Amended by Ord. 17-04, 2/28/2017; Amended by Ord 21-01, 03/09/2021).*

**§ 150.04 PLUMBING CODE; ADOPTED BY REFERENCE.**

(1) For regulating and governing the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the plumbing systems as herein provided each and all of the regulations, provisions, penalties, conditions and terms of the International Plumbing Code, 2018 Edition, including Appendices E and F, published by the International Code Council on file in the office of the Municipality is hereby referred to, adopted, and made a part of as if fully set out in this ordinance.

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Plumbing Code, and one (1) copy of the Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The provisions of said Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. *(Amended by Ord. 09-07, 05/04/2009; 15-15, 9/8/2015) (Amended by Ord. 21-03, 6/22/2021).*

**§ 150.05 MECHANICAL CODE; ADOPTED BY REFERENCE.**

(1) For regulating and governing the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the mechanical systems as herein provided each and all of the regulations, provisions, penalties, conditions and terms of the International Mechanical Code, 2018 Edition, including Appendix A, published by the International Code Council on file in the office of the Municipality is hereby referred to, adopted, and made a part of as if fully set out in this ordinance.

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Mechanical Code, and one (1) copy of the Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The provisions of said Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. *(Amended by Ord. 09-07, 05/04/2009; 15-15, 9/8/2015) (Amended by Ord. 21-03, 6/22/2021).*

**§ 150.06 GAS PIPING CODE; ADOPTED BY REFERENCE.**

(1) For regulating and governing the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the fuel gas piping in or in connection with a building or structure within the property lines of premises, other than service pipe as herein provided each and all of the regulations, provisions, penalties, conditions and terms of the International Fuel Gas Code, 2018 Edition, including all Appendices, published by the International Code Council on file in the office of the Municipality is hereby referred to, adopted, and made a part of as if fully set out in this ordinance.

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Fuel Gas Code, and one (1) copy of the Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The

provisions of said Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. *(Amended by Ord. 09-07, 05/04/2009; 15-15, 9/8/2015) (Amended by Ord. 21-03, 6/22/2021).*

**§ 150.07 EXISTING BUILDING CODE; ADOPTED BY REFERENCE.**

(1) For regulating and governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings, including historic buildings, as herein provided each and all of the regulations, provisions, penalties, conditions and terms of the International Existing Building Code, 2018 Edition, published by the International Code Council on file in the office of the Municipality is here by referred to, adopted, and made a part of as if fully set out in this ordinance.

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Existing Building Code, and one (1) copy of the Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The provisions of said Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. *(Amended by Ord. 09-07, 05/04/2009; 15-15, 9/8/2015) (Amended by Ord. 21-03, 6/22/2021).*

**§ 150.08 PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE.**

(1) For regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for the supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures, as herein provided each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance Code, 2018 Edition, published by the International Code Council on file in the office of the Municipality is hereby referred to, adopted, and made a part of as if fully set out in this ordinance.

(2) The City reserves the right to adopt additions, insertions, deletions and changes to the 2018 International Property Maintenance Code, and one (1) copy of the Code is on file at the office of the City Clerk and is available for inspection at any reasonable time. The provisions of said Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. *(Amended by Ord. 09-07, 05/04/2009; 15-15, 9/8/2015) (Amended by Ord. 21-03, 6/22/2021).*

***BUILDING PERMITS AND REGULATIONS***

**§ 150.20 BUILDING PERMITS REQUIRED.**

No person or firm may commence or proceed to erect, construct, enlarge, demolish, or relocate any building, dwelling, or part thereof, or cause the same to be done without first obtaining a permit from the City or State of Nebraska. The application shall be in writing on forms provided by the City Clerk and shall cover only one building per application. Each application shall set forth the legal description of the land upon which the construction or

relocation is to take place, the nature of the use or occupancy, the principle dimensions, the estimated cost, the name(s) of the owner, architect/engineer, the contractor and such other information as may be requested to complete the review of the application. All new electrical services, additions to or modification of existing electrical systems will require a permit from the State of Nebraska Electrical Division. Routine maintenance which means the repair or replacement of existing electrical apparatus and equipment of the same size and type for which no changes in wiring are made are exempt from these permit requirements.

The application, plans and specifications as filed shall be checked and examined by the Building Inspector who shall either approve or disapprove the application within thirty (30) days of receipt of the application. If the application is found to be within conformity with the requirements of this Chapter and all other ordinances applicable, upon payment of the required fee the Building Inspector shall issue the applicant a permit and shall sign the application and mark the plans Approved. If the application is not in conformity with the required regulations, the Building Inspector shall state in writing on the application and/or the plans the reason for the disapproval.

Whenever there is a discrepancy between the permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. (*Amended by Ord. 09-07, 5/4/09; 11-11, 5/2/11*)

#### **§ 150.21 INSURANCE REQUIRED.**

No permit shall be issued by the Building Inspector until the person or firm requesting said permit shall have on deposit with the City Clerk adequate proof of liability insurance coverage. Minimum liability insurance coverage requirements shall be set by resolution of the City Council and shall remain in effect until superseded by a later resolution of that Body.

The Clerk may assign an insurance number to the contractor to facilitate processing of applications and permits.

#### **§ 150.22 FEES.**

The City Council shall by resolution adopt a fee schedule for permits and inspections under this Article and said schedule shall remain in effect until superseded by a later resolution of that Body. (~~*Fees determined under Resolution 08-13*~~) (*Amended by Ordinance 21-11, 9/28/21.*)

Whenever any work for which a permit is required has been commenced without first obtaining said permit, an investigative fee in addition to the permit fee shall be collected. The minimum investigative fee shall be equal to the amount of the permit fee required.

Exception: No double fee penalty set forth in this chapter shall be imposed if:

- (a) The work is on an emergency nature where a delay in performing the work may cause a risk to life or health or will significantly increase the risk of property damage, provided a permit is applied for within 48 hours of completion of the work, in which case no penalty shall be imposed; or

- (b) An applicant applies for a permit after the work has begun, but before the work is observed and record by a city inspector, in which case, a one and one-half fee shall be imposed.

Fee refunds: The Building Inspector may authorize refunding of any fee paid which was erroneously paid or collected. The Building Inspector shall not authorize refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

The Building Inspector may authorize refunding of not more than 80 percent of the building permit fee when work authorized by said permit has not been commenced. The plan review fee is not refundable. (*Amended by Ord. 09-07, 5/4/09*)

### **§ 150.23 PERSONAL ALTERATIONS AND ADDITIONS.**

Any homeowner may remodel, including carpentry, plumbing, and mechanical work only in a single-family residence which he occupies as his own home. All equipment installed by an owner shall be for personal use without compensation or pay from or to any other person for such labor or installation. Such installation by an owner shall comply with the requirements of this code, and the owner, in exercising this privilege, shall not set himself up as a contractor. The owner shall be required to file plans, apply for, and secure a permit, pay fees, and call for all inspections in the manner provided in this Code. However, he shall be exempt from the insurance requirements of this Article. (*Amended by Ord. 09-07, 5/4/09*) (*Amended by Ord.17-04, 2/28/2017*).

### **§ 150.24 DUPLICATE TO COUNTY ASSESSOR.**

Whenever a building permit is issued for the erection, alteration, or repair of any building within the Municipality's jurisdiction, and the improvement is one thousand dollars (\$1,000.00) or more, a duplicate of such permit shall be issued to the County Assessor.

## ***MOVING OF BUILDINGS***

### **§ 150.50 REGULATIONS.**

It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without a written permit to do so. Application may be made to the Building Inspector, and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Building Inspector shall refer the said application to the Chief Law Enforcement Officer for approval of the proposed route over which the said building is to be moved. Upon approval of the Governing Body, the Building Inspector shall then issue the said permit; provided, that a good and sufficient corporate surety bond in the amount of five thousand dollars (\$5,000.00) and conditioned upon moving said building without doing damage to any private or Municipal property is

filed with the Building Inspector prior to the granting of any permit. No moving permit shall be required to move a building that is ten feet (10') wide, or less, and twenty feet (20') long, or less, and when in a position to move, fifteen feet (15') high, or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires, or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as is necessary. *(Amended by Ord. 17-04, 2/28/2017).*

**§ 150.51 DEPOSIT.**

At such time as the building moving has been completed, the Building Inspector shall inspect the premises and report to the Municipal Clerk in writing as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from the Building Inspector, the Municipal Clerk shall return the corporate surety bond deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the five thousand dollar (\$5,000.00) corporate surety bond, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

**§ 150.70 VIOLATIONS; PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter shall be deemed guilty of a Class II Misdemeanor as defined by § 131.22 of this Code. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. *(Amended by Ord. 07-05, 5/7/07)*

## CHAPTER 151: ZONING AND SUBDIVISION REGULATIONS

### Section

151.01 Zoning regulations; adopted

#### Subdivisions

151.02 Subdivision regulations; adopted

151.03 Comprehensive plan; adopted

151.04 Violation; penalty

### § 151.01 ZONING REGULATIONS; ADOPTED.

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community, and to lessen congestion in the streets; to secure safety and fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements of the Zoning Regulations for the City of Waverly, Nebraska (also known as the "Waverly Zoning Ordinance"), published in book form, have been adopted by Ordinance Number 11-100 of the 4<sup>th</sup> day of October, 1982, as amended by Ordinance No. 86-7, adopted on the 4<sup>th</sup> day of August, 1986, Ordinance No. 88-5 adopted on the 5<sup>th</sup> day of July, 1988, Ordinance No. 88-8 adopted on the 3<sup>rd</sup> day of October, 1988, Ordinance No. 89-1 adopted on the 20<sup>th</sup> day of February, 1989, Ordinance No. 90-2 adopted on the 19<sup>th</sup> day of March, 1990, Ordinance No. 90-5 adopted on the twenty-first day of May, 1990, Ordinance No. 91-3 adopted on the 17<sup>th</sup> day of June, Ordinance No. 92-2, adopted on the 6<sup>th</sup> day of April 1992, and Ordinance No. 99-20, adopted on the 16<sup>th</sup> day of August, 1999, and as amended by Ordinance No. 13-11, adopted on the 17<sup>th</sup> day of September 2013. Three (3) copies of the adopted Zoning Regulations shall be kept on file with the Municipal Clerk and available for inspection by any member of the public during office hours. (*Amended by Ord. Nos. 86-7, 8/4/86; 88-5, 7/5/88; 88-8, 10/3/88; 89-1, 2/20/89; 90-2, 3/19/90; 90-5, 5/21/90; 91-3, 6/17/91; 92-2, 4/6/92; 99-20, 8/16/99; 13-11, 9/17/13*)

#### Subdivisions

### § 151.02 SUBDIVISION REGULATIONS; ADOPTED.

To provide for harmonious development of the Municipality and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light and air; for distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with the capital improvement program of the Municipality; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers and the Planning Commission and Governing Body, the Subdivision Regulations for the City of Waverly, Nebraska, published in book form, have been adopted by Ordinance Number 11-200, on the 15<sup>th</sup> day of September, 1980, as amended

by Ordinance No. 88-9 adopted on the 3<sup>rd</sup> day of October 1988, as amended by Ordinance No. 89-2 adopted on the 20<sup>th</sup> day of February, 1989, and as amended by Ordinance No. 99-21 adopted on the 16<sup>th</sup> day of August, 1999, and amended by Ordinance No. 13-12 adopted on the 17<sup>th</sup> day of September, 2013. One (1) copy of the adopted Subdivision Regulations shall be kept on file with the Municipal Clerk and available for inspection by any member of the public during office hours. (*Amended by Ord. Nos. 88-9, 10/3/88; 89-2, 2/20/89; 99-21, 8/16/99; 13-12, 9/17/13*)

**§ 151.03 COMPREHENSIVE PLAN; ADOPTED.**

In order to accommodate anticipated long-range future growth, the Comprehensive Development Plan for the City of Waverly, Nebraska, has been adopted by Resolution. One (1) copy of the adopted Plan shall be kept on file with the Municipal Clerk and available for inspection by any member of the public during office hours.

**§ 151.04 VIOLATION; PENALTY.**

Any person, whether as owner, proprietor, or as the agent, attorney, or representative of any owner or proprietor of land, who shall plat or subdivide any tract of land within the corporate limits of the Municipality, or adjoining and contiguous to the same, except as herein authorized, or who shall sell, transfer, deed or convey, contract, or agree to sell, transfer, or offer for sale any lot or piece of ground in any addition, or subdivision of three (3) or more parts within said corporate limits, or adjoining and contiguous thereto, without having first obtained the acceptance, and approval of the plat or map thereof by the Governing Body, and any person who shall violate, or who shall fail, neglect, or refuse to comply with any of the provisions hereinbefore, as now existing, or as hereafter amended, shall be guilty of a Class II Misdemeanor as defined by § 131.22 of this Code. (*Amended by Ord. 07-05, 5/7/07*)

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# **1** ARTICLE ONE

## **GENERAL PROVISIONS**

### **11.101 Title**

This title of the Waverly Municipal Code shall be known as the Zoning Ordinance of the City of Waverly.

### **11.102 Jurisdiction**

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Waverly and its extra-territorial jurisdiction as provided by Section 17, Revised Statutes of Nebraska, 1934.

### **11.103 Purpose**

The purposes of the Zoning Ordinance of the City of Waverly 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 Waverly.

### **11.104 Application**

No building , structure, or land shall be constructed, reconstructed, moved, structurally altered, used, or occupied except as provided by this Ordinance.

### **11.104 Consistency with Comprehensive Plan**

The City of Waverly intends that this Zoning Ordinance and any amendments to it shall be consistent with the City's Comprehensive Plan. It is the City's intent to amend this ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Plan.

### **11.105 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 Waverly, or any applicable State or Federal law, the more restrictive provision shall apply.

## GENERAL PROVISIONS

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### **11.106 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.

### **11.107 Severability of Provision**

If any chapter, section, 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.

### **11.108 Publication**

This Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, be filed with the City Clerk of the City of Waverly, Nebraska.

## DEFINITIONS

# 2

## ARTICLE TWO

### DEFINITIONS

#### 11.201 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.

#### 11.202 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, or intent of any provision of the Zoning Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of the 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.

## DEFINITIONS

### f. Referenced Agencies

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

### 11.203 Definition 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 meaning or meanings implied by their context shall apply.

### 11.204 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 detached structure within a residentially zoned district used as a garage, tool shed, hobby shop, green house, or playhouse. *(Amended by Ord. 04-02, 4-19-04)*
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. **Agricultural Farm or Operation:** A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least twenty (20) acres and which produces one thousand dollars (\$1,000) or more of farm products each year. *(Amended by Ord 13-11; 9-17-13)*
6. **Agent of Owner:** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
7. **Alley:** A public right of way, other than a street and twenty feet or less in width which is used as a secondary means of access to abutting property.
8. **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.
9. **Apartment:** A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
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.

### 11.205 B

1. **Base Zoning District:** A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.

## DEFINITIONS

2. **Basement:** A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
3. **Beginning of Construction:** The initial incorporation of labor and materials within the foundation of a building or structure.
4. **Block:** An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.
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 Waverly.
6. **Board of Adjustment:** A body, established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.
7. **Bufferyard:** A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another, to screen parking areas or outside storage areas from public view. *(Amended by Ord 13-11; 9-17-13)*
8. **Building:** A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons, animals, processing, equipment, goods or materials of any kind, or property. *(Amended by Ord 13-11; 9-17-13)*
9. **Building Coverage:** The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features. Maximum Building Coverage is the total area of principal and accessory permitted buildings as a percentage of the total area of the individual parcel. *(Amended by Ord 13-11; 9-17-13)*
10. **Building Envelope:** The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.
11. **Building Line:** The outer boundary of a building established by the location of its exterior walls.
12. **Building Official:** The city official who is responsible for the enforcement of the applicable building code and conditional uses.
13. **Building Permit:** A document that must be issued by the Building Official prior to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure regulated by this Ordinance or by the applicable building codes of the City of Waverly. Issuance of a building permit follows review of plans by the Building Official to determine that the proposed use of building or land complies with the provisions of the Zoning Ordinance.
14. **Business:** Activities that include the exchange or manufacture of goods or services on a site.
15. **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.

## DEFINITIONS

### 11.206 C

1. Certificate of Occupancy: An official certificate issued by the Building Official or his/her designee prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Zoning Ordinance.
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. City: The City of Waverly, Nebraska.
5. City Council: The City Council of Waverly, Nebraska.
6. Common Area: An area held, designed, and designated for common or cooperative use within a development.
7. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.
8. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.
9. 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.
10. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Waverly.
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. Conservation Development: 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.
13. Conservation Subdivision: Wholly or in majority, a 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.
14. County: Lancaster County, Nebraska.

## DEFINITIONS

15. Court (or Lane): 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.

16. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.

17. Conventional Subdivision: A subdivision which literally meets all nominal standards of the Land Development Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.

18. Creative Subdivision: A subdivision which, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Conservation Subdivisions and Traditional Neighborhood Districts.

### 11.207 D

1. Deck: An addition to a house that is neither roofed nor sided and is not a structural element of the house.

2. Density: The amount of development per specific unit of a site.

3. Drive-in Services: Uses which involve the sale of products or provision of services to occupants in vehicles.

4. 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.

5. Driveway: A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.

6. Duplex: A building, typically on a single lot of record, containing two (2) single family dwelling units, each separated from one another by an un-pierced wall extending from ground level to roof. *(Amended by Ord 13-11; 9-17-13)*

7. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

### 11.208 E

1. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.

2. Enclosed: A roofed or covered space fully surrounded by walls.

## DEFINITIONS

### 11.209 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 ordinance: *(Updated by Ord. 04-02, 4-19-04)*
  - (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. Fascia: A parapet-type wall used as part of the facade of a flat-roofed building and projecting no more than six feet from the immediately adjacent building face. Such a wall shall enclose at least three sides of the projecting flat roof and return to the parapet wall or the building. *(Updated by Ord. 04-02, 4-19-04)*
3. Federal: Pertaining to the Government of the United States of America. *(Updated by Ord. 04-02, 4-19-04)*
4. Fence: A form of construction, not ordinarily considered a structure, that is designed for screening or enclosing a property. *(Updated by Ord. 04-02, 4-19-04)*
5. Floor Area Ratio: The quotient of gross floor area divided by gross site area. *(Updated by Ord. 04-02, 4-19-04)*
6. Footprint: The total square footage of the exterior walls of a principal residence excluding the garage. *(Established by Ord. 04-02, 4-19-04)*
7. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court. *(Updated by Ord. 04-02, 4-19-04)*

### 11.210 G

1. Grade: The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.
  - (a) For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
  - (b) For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
  - (c) For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

## DEFINITIONS

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.

### 11.211 H

1. Hard-Surfacing: Surfacing of a site or portion of a site with a material which is generally dust-free and impervious to surface moisture. Typical materials include concrete, asphalt, asphaltic concrete, unit pavers, brick, and similar materials.
2. 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 the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.
3. Home Based Business/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.
4. 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.

### 11.212 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.

### 11.213 J

### 11.214 K

### 11.215 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, ground cover, 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.

## DEFINITIONS

3. Lot: A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Lancaster County Register of Deeds. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Creative Subdivision.

(a) Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

(b) Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)

(c) Interior Lot: A lot other than a corner lot.

(d) Common Development Lot: When two or more contiguous lots are developed as part of a Planned Unit Development, these lots may be considered a single lot for purposes of this ordinance.

4. Lot Area: The total horizontal area within the lot lines of a lot.

5. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

6. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.

(a) Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.

1) For an interior lot, the lot line separating the lot from the right-of-way or easement.

2) For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.

3) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original building permit for the lot, or as may be noted on the final plat.

(b) Rear Lot Line: The lot line which is opposite and most distant from the front 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 measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

## DEFINITIONS

### 11.216 M

1. **Manufactured Home Dwelling:** A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles; bears a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the US Department of Housing and Urban Development; and which complies with the following architectural and aesthetic standards:

- (a) The home shall have at least 900 square feet of floor area;
- (b) The home shall have an exterior width of at least 18 feet;
- (c) The roof shall be pitched with a maximum vertical rise of 2.5 inches for each 12 inches of horizontal run.
- (d) The exterior material is of a color, material, and scale comparable with those existing in the residential site on which the manufactured home dwelling is being permanently installed;
- (e) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (f) Permanent utility connections shall be installed in accordance with local regulations;
- (g) The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and
- (h) The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.

2. **Mixed Use Building:** A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

3. **Mixed Use Development:** A single development which incorporates complementary land use types into a single development.

4. **Mobile Home:** 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 and Human Services System or conformance to the manufactured home procedural and enforcement regulations, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings. (*Amended by Ord 13-11; 9-17-13*)

5. **Mobile Home Park:** A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

## DEFINITIONS

6. Mobile Home Subdivision: A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage.

### 11.217 N

1. 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 energy 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. (*Amended by Ord 13-11; 9-17-13*)

2. 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.

3. 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 present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

4. Nonconforming Sign: A sign that was legally erected 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 present requirements of the zoning ordinance.

5. 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 present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.

6. Nonconforming Use: A land use 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 present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.

7. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

### 11.218 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 three days.

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.

## DEFINITIONS

4. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

### 11.219 P

1. 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. Vehicle storage is distinct from parking, and is regulated by provisions in Sections 307b, 308, 309j, Table 4-2. Vehicle storage is also governed by provisions of Article 9: Parking Regulations.
2. 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 townhome residential uses shall be considered to have a means of access to a public street.
3. Paved: Permanently surfaced with poured concrete, concrete pavers, brick or other masonry material, asphalt, or asphaltic concrete.
4. Permanent Foundation: An exterior wall and necessary structure designed to support any building or structure for the useful life of such structure. The exterior wall of a permanent foundation shall conform to the requirements of the Uniform Building Code.
5. 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.
6. Planning Commission: The Planning Commission of the City of Waverly.
7. 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.
8. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.
9. Portable Storage Unit: Any container designed for the storage of personal property which is typically rented to owners or occupants of residential (single family or multi-family) property for their temporary use and which is delivered and removed by truck. *(Established by Ord. 08-10,8-4-08)*
10. Premises: A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
11. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.
12. Property Line: See "Lot Line."

### 11.220 Q

## DEFINITIONS

### 11.221 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.
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.
4. Roll-off unit: A metal storage receptacle used primarily for the temporary storage or deposit or waste materials, including debris, trash, or construction renovation or demolition waste, and which is transportable such as to be delivered by, rolled off of and picked up by a carrying vehicle that allows for the removal of its contents to a dump site. (*Established by Ord. 08-10,8-4-08*)

### 11.222 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 the landscape provisions of this ordinance.
2. Setback: The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
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; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
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; and any other information that may be reasonably requested by the City in order that an informed decision can be made on the associated request.
6. Special Use Permit: The special permit provides permission under specific conditions to authorize special uses of land in a zoning district as stipulated under permitted special uses in each of the district zoning regulations. Special exception uses are allowed in a zoning district only at the discretion of and with the explicit approval of the Planning Commission. The procedure to obtain a Special Use Permit is further detailed in Section 11.1203 of this Ordinance. (*Amended by Ord 13-11; 9-17-13*)
7. State: The State of Nebraska.
8. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.

## DEFINITIONS

9. Street: A right of way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Nebraska State Statute.
10. Collector Street: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
11. Street, Intersecting and Principal: In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; the intersecting street shall be a street other than a principal street.
12. Street, Local: A street which is used primarily for access to the abutting properties.
13. Street, Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan.
14. Structure: Any object constructed or built and attached or anchored permanently or semi-permanently to the ground in such a way as to prevent routine movement.

### 11.223 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 at least two and not more than four contiguous townhouses with common or abutting walls.

### 11.224 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.

### 11.225 V

### 11.226 W

### 11.227 X

### 11.228 Y

1. Yard; Required: That portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.

## DEFINITIONS

(a) Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:

- 1) The yard along the block face to which a greater number of structures are oriented; or
- 2) The yard along a street that has the smaller horizontal dimension.

(b) Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.

(c) Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

(d) Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.

### 11.229 Z

1. Zoning Administrator: The designee of the City Council responsible for the interpretation, administration, and enforcement of the Waverly Zoning Ordinance.
2. 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.

# 3

## ARTICLE THREE

### USE TYPES

#### 11.301 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 specially 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. *(Amended by Ord 13-11; 9-17-13)*

#### 11.302 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 Waverly shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment 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.

#### 11.303 Agricultural Use Types

Agricultural use types include the on-site production and sale 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 for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

##### c. Animal Production

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.

## USE TYPES

### d. Commercial Feedlots

The use of a site for the confined feeding or holding of livestock or poultry within buildings, lots, pens, or other close quarters, which are not used for crop production or where grazing of natural vegetation is not the major feed source. Livestock and poultry shall include any animal or fowl which are used primarily for use as food or food products for human consumption, or for laboratory or testing purposes. A Commercial Feedlot does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

### e. Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

## 11.304 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. Mobile home units are not a single-family use type. See below categories for such units.

1. Single-Family Residential: A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit. *(Amended by Ord 13-11; 9-17-13)*

### b. Townhouse Residential

The use of a site for two or more attached dwelling units, each unit with its own lot, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings with its own front and rear access to the outside, and neither above or below any other dwelling unit. Each townhouse unit must have at least two exposed exterior walls. *(Amended by Ord 13-11; 9-17-13)*

### c. Duplex Residential

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

### d. Multiple-Family Residential

The use of a site for three or more dwelling units within one building not otherwise defined as townhouse units.

### e. Downtown Residential

The use of upper levels above street level of a building within the Central Business District of the City of Waverly for single- or multiple-family residential uses.

### f. Group Residential

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

## USE TYPES

g. Manufactured Home Residential

Use of a site for one or more manufactured home dwellings, as defined in Section 11.216.

h. Mobile Home Park

Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

i. Mobile Home Subdivision

Division of a tract of land into lots that meet all the requirements of the City of Waverly's subdivision ordinance for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.

j. Retirement Residence

A building or group of buildings which provide residential facilities for more than four residents who are retirees or elderly persons, or households headed by a retiree or elderly person. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care. (*Amended by Ord 13-11; 9-17-13*)

### 11.305 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 contact 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, nonprofit or noncommercial association, primarily for use by members and guests.

1. Clubs (Recreational): Clubs which provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs and private or nonprofit community or recreation centers.

## USE TYPES

2. Clubs (Social): Clubs which provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.

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 inpatient 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. Typical uses include nursing homes.

f. Cultural Services

A library, museum, or similar registered nonprofit 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)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than eight (8) children. Day care services in a residence providing care to four (4), but no more than eight (8) children are also included in this classification. These facilities are regulated by the Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002. 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.  
*(Amended by Ord 13-11; 9-17-13)*

h. Day Care Services (General)

This Use Type includes all classifications of day care facilities providing care for more than eight (8) children. These facilities are regulated by the State of Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002. 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.  
*(Amended by Ord 13-11; 9-17-13)*

## USE TYPES

### i. Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

### j. Emergency Residential Services

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

### k. Group Care Facility

A government-licensed or approved facility which provides for resident care and short or long-term, continuous multi-day occupancy of more than 8 but no more than 30 unrelated persons, not including resident staff. Group Care Facilities include facilities which provide services in accordance with individual needs 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 developmental disabilities.
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.
5. Others who require direct adult supervision.

### l. Group Home

A facility licensed by the State of Nebraska in which at least three 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, living assistance, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation, or other disability similarly specified under Nebraska State Statute.

### m. 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.

### m. Health Care

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.

## USE TYPES

o. 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.

p. Maintenance Facilities

A public facility 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.

q. Park and Recreation Services

Publicly owned and operated parks, playgrounds, recreation facilities including publicly-owned community centers, and open spaces.

r. Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

s. 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.

t. Public Assembly

Facilities owned and operated by a public agency or a charitable nonprofit 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.

u. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (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 Property Tax Code of the State of Nebraska shall constitute prima facie evidence of religious assembly use.

v. Safety Services

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

w. 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.

## USE TYPES

### x. Utilities

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.

### 11.306 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. Corporate Offices

Use of a site for administrative, processing, or research offices, which generally does not provide service to clientele from Waverly and the surrounding region. Corporate offices are destinations for commuters drawn from a relatively wide region around Waverly, as well as from the community itself. Typical uses include corporate headquarters offices, telemarketing, or information processing offices.

#### b. General Offices

Use of a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

#### c. Financial Services

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on site by an office of a primary financial institution is considered within the Personal Services Use Type.

#### d. Medical Offices

Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.

### 11.307 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.

## USE TYPES

### 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, noncommercial 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. **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.

### c. Bed and Breakfast

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision 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 resident manager of the structure, include no more than eight units, and accommodate each guest or visitor for no more than 7 consecutive days during any one month period.

### 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. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, messenger and delivery services, custodial or maintenance services, and convenience printing and copying.

## USE TYPES

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

Facilities 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 7 consecutive days during any one month period.

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 other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, billiard or bowling centers, game arcades, 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. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

j. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of 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, 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.

## USE TYPES

m. Firework Sales (Amended by Ord. 02-07, 3/4/02)

Establishments or places of business engaged in the retail sale of fireworks. Approved fireworks shall consist of sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers not to exceed seven-eighths inch (7/8") in length or one-eighth inch (1/8") in diameter with total pyrotechnic composition not to exceed one-half gram (1/2 g) each in weight, color wheels, and any other fireworks approved under the provisions of Section 7-504.

n. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food Sales establishments may include the sale of non-food items. However, the sales of non-food items may account for no more than the lesser of 25% of the sales area or 10,000 square feet of the Food Sales establishment. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.
2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.
3. General Food Sales: Establishments selling a wide variety of food commodities and related items, using facilities larger than 10,000 but less than 40,000 square feet. Typical uses include grocery stores and locker plants.
4. Supermarkets: Establishments selling a wide variety of food commodities, related items, and often providing a variety of non-food goods and services, using facilities larger than 40,000 square feet. Typical uses include large grocery stores.

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. 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; pet motels, or dog training centers.

p. 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.

## USE TYPES

q. 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.

r. 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.

s. Personal Improvement Services

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools, health or physical fitness studios, music schools, reducing salons, dance studios, handicraft and hobby instruction.

t. 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; television or electronics repair; or dry cleaning stations serving individuals and households. Personal Services include establishments providing for the administration of massage or massage therapy carried out by persons licensed by the State of Nebraska when performing massage services as a part of the profession or trade for which licensed or persons performing massage services under the direction of a person so licensed; or persons performing massage services or therapy pursuant to the written direction of a licensed physician.

u. 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.

v. 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.

w. 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 establishment's gross income.

1. Restaurant (Drive-in or Fast Food): An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and onsite accommodations, self-service, and short stays by customers.

## USE TYPES

2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

x. Restricted Businesses (*Amended by Ord. 00-10, 1/15/01*)

Any business activity which as a substantial or significant portion of its business features or provides the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Waverly, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political or scientific value. This category includes, but is not limited to, the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; business which offer live performances characterized by exposure of anatomical areas in a manner intended to have sexual or erotic impact on the view; and adult theaters.

y. 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, photograph 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). General Retail Services include:

1. Limited Retail Services: Establishments providing retail services, occupying facilities of 3,000 square feet or less. Typical establishments provide for specialty retailing or retailing oriented to Waverly and its surrounding vicinity.
2. Medium Retail Services: Establishments providing retail services, occupying facilities between 3,001 and 10,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Waverly and its surrounding vicinity.
3. Large Retail Services: Establishments providing retail services, occupying facilities between 10,001 and 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Waverly and its surrounding vicinity.
4. Mass Retail Services: Establishments providing retail services, occupying facilities over 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Waverly and the surrounding region.

## USE TYPES

z. Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

aa. Surplus Sales

Businesses engaged in the sale, including sale by auction, of used items or new items which are primarily composed of factory surplus or discontinued items. Surplus sales uses sometimes include regular outdoor display of merchandise. Typical uses include flea markets, auction houses, factory outlets, or merchandise liquidators.

bb. Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

cc. Vehicle Storage (Short-term)

Short-term storage of operating or nonoperating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

dd. Veterinary Services

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

### 11.308 Parking Use Types

a. Off-Street Parking

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

b. Parking Structure

The use of a site for a multilevel building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

### 11.309 Industrial Use Types

Industrial use types include the onsite extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

## USE TYPES

### a. 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.

### b. Custom Manufacturing

Establishments primarily engaged in the onsite 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.

### c. 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.

### d. 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.

### e. 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.

### f. Recycling Collection

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

### g. Recycling Processing

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

## USE TYPES

### h. Resource Extraction

A use involving onsite 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.

### i. 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, junk yards, or paper salvage yards.

### j. Vehicle Storage (Long-term)

Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

### k. Warehousing (Enclosed)

Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies. Storage facilities of at least one acre in total size may provide one on-site managers apartment to oversee the operation of the facility. *(Amended by Ord 13-11; 9-17-13)*

### l. Warehousing (Open)

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage.

## 11.310 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 Facility

Railroad yards, equipment servicing facilities, and terminal facilities.

### c. Transportation Terminal

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

## USE TYPES

d. Truck Terminal

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

### 11.311 Miscellaneous Type Uses

a. Alternative Energy Production Devices

The support of a residence or business by the production of energy for electrical power utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Alternative energy sources include Wind, Solar, Geothermal, Biomass or Methane in accordance with the provisions of "Net Metering, see definition in Section 11.217." The alternative energy production device, or combination of devices, functions as an accessory use to the principal permitted building or use. (*Amended by Ord 13-11; 9-17-13*)

b. Amateur Radio Tower

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.

c. Communications Tower

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.

d. Construction Batch Plant

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

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, brick, lumber, roofing materials and ceramic tile.

f. Landfill (Putrescible and Non-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 non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

g. Wind Energy Conservation System (WECS)

Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines. See Section 11.614 for detailed provisions. (*Amended by Ord 13-11; 9-17-13*)

**ZONING DISTRICT REGULATIONS**

**4**

**ARTICLE FOUR**

**ZONING DISTRICT REGULATIONS**

**11.401 Purpose**

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

**11.402 Establishment of Districts**

The following base districts and overlay districts are hereby established. Table 4-1 displays the purposes of these districts.

<b><u>BASE ZONING DISTRICTS</u></b>	
	<b><u>DISTRICT NAMES</u></b>
<b><u>Agricultural Districts:</u></b>	
AG	Agricultural District
RR	Rural Residential District
<b><u>Residential Districts:</u></b>	
R-1	Single-Family Residential District (Low-Density)
R-2	Single-Family Residential (Medium-Density)
R-3	Urban Family Residential District
R-4	Multiple-Family Residential District
MH	Mobile Home Residential District
<b><u>Commercial Districts:</u></b>	
MX	Mixed Use Urban District
LC	Limited Commercial/Office District
CC	Community Commercial District
DC	Downtown Commercial District
GC	General Commercial District
<b><u>Industrial Districts:</u></b>	
BP	Business Park District
LI	Limited Industrial District
GI	General Industrial District
<b><u>OVERLAY DISTRICTS</u></b>	
MU	Mixed Use District
PUD	Planned Unit Development District
TR	Traditional Residential Overlay District
FP	Salt Creek Valley Floodplain/Floodway Overlay District

## ZONING DISTRICT REGULATIONS

### 11.403 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.

Overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation. The Mixed Use District may stand alone as a base district.

### 11.404 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 GI General Industrial District as the most intensive. The Overlay Districts shall not be included in this reference.

### 11.405 Development Regulations

For each Zoning District: Purposes are set forth in Table 4-1; Uses permitted are set forth in Table 4-2; Development Regulations are set forth in Tables 4-2 and Site Development Regulations are presented in Table 4-3.

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

### 11.406 Zoning Map

#### a. Adoption of Zoning Map

Boundaries of zoning districts established by this Zoning Regulations shall be shown on the Zoning Map maintained by the City Clerk. This map shall bear the signature of the Mayor attested by the City Clerk under the certification that this is the Official Zoning Map referred to by this Ordinance. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with these Regulations. Said Zoning Map shall be prominently displayed in the council chambers and/or an area accessible to the public at Waverly City Hall.

#### 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.

### 11.407 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 deemed the district boundary.

## ZONING DISTRICT REGULATIONS

- 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.

### **11.408 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.

### **11.409 Annexation of Territory**

All unimproved or agricultural territory which may hereafter be annexed to the City shall be considered as lying in the AG Agricultural District until such classification shall be changed as provided by this ordinance. Any improved property that is annexed into the city shall be zoned according to the zoning district that most nearly describes either its present use or the use proposed by Waverly's Comprehensive Plan. This zoning shall be established by the Planning and Zoning Commission and the City Council at the time of annexation.

### **11.410 Protection of Existing Structures**

A residence or house that is totally destroyed, or partially destroyed or damaged to the extent such destruction or damage exceeds seventy-five percent (75%) of the assessed value, by fire, flood, wind, water, earthquake or other calamity or act of nature or the public enemy, may be restored provided such residence or house is rebuilt in compliance with the Zoning Regulations and with square footage equal to or greater than the original residence or house.

## ZONING DISTRICT REGULATIONS

### 11.411.100 AGRICULTURAL DISTRICTS:

#### 11.411.101 Purpose of Districts:

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
AG	Agricultural	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. This district is designed to maintain complete agricultural uses within the Waverly extra-territorial jurisdiction.
RR	Rural Residential	This district provides for the rural residential use of land, accommodating very low and low density residential environments. The district regulations assure that density is developed consistent with land use policies of the Waverly Comprehensive Plan regarding rural subdivisions; levels of infrastructure; and environmentally sensitive development practices. The district also accommodates developments that merge urban living with rural life.

**11.411.102 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the AG and RR Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	AG	RR	Addl. Reg.
<b>Agricultural Uses</b>			<b>11.303</b>
Horticulture	P	P	11.602a
Crop Production	P	P	11.602a
Animal Production	P		11.602b
Commercial Feedlots			11.602c
Livestock Sales			11.303e
Kennels	P		11.307o / 11.606g
Personal Services	P		11.307t / 11.606
Pet Services	S		11.307u / 11.606
Stables	S		11.307z / 11.606
Veterinary Services	S		11.307dd
Alternative Energy Production Devices	S		11.311a / 11.612
Amateur Radio Tower	P		11.311b / 11.612
Wind Energy Conversion Systems	S		11.311g / 11.612c
<b>Residential Uses</b>			<b>11.304</b>
Single-Family	P	P	11.603b
Group Residential	P		11.603g
Manufactured Housing Residential	P	P	11.216 (1)
Mobile Home Park			11.603h
Mobile Home Subdivision			11.603i
Retirement Residential	S	S	
Bed and Breakfast	S		11.606d

*(Amended by Ord. 15-03, 6-2-15)*

Use Types	AG	RR	Addl. Reg.
<b>Civic Uses</b>			<b>11.305</b>
Administration		S	
Cemetery	S	S	
Clubs (Recreational)	S	S	11.605a
Clubs (Social)	S		11.605a
College/University	S	S	
Convalescent Services	S	S	
Cultural Services	S	S	
Day Care (Limited)	P	P	11.605b
Day Care (General)	S	S	11.605b
Detention Facilities	S		
Emergency Residential	P	P	
Group Care Facility			11.605c
Group Home	S	S	11.605c
Health Care			
Hospitals			
Maintenance Facilities	S	S	
Park and Recreation	P	P	
Primary Education	S	P	
Religious Assembly	P	P	
Safety Services	P	P	
Secondary Education	S		
Utilities	P	S	

## ZONING DISTRICT REGULATIONS

**11.411.103 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Section 11.613 of these Regulations;
3. Garden centers and roadside stands, subject to the regulations set forth in Section 6-2(a)(2);

**11.411.104 Height and Area Regulations:** The maximum height and minimum area regulations within AG and RR Districts shall be as follows:

Regulator	AG	RR
<b>Minimum Lot Area (square feet)</b>		
Single Family	20 Acres*	3 Acres
Other Permitted Uses	20 Acres	
<b>Minimum Lot Width (feet)</b>	200	
<b>Site Area per Housing Unit (square feet) by type of residential</b>		
Single-Family	20 Acres	3 Acres
<b>Minimum Yards</b>		
Front Yard	50	50
Rear Yard	50	40
Interior Side Yard		
Residential Uses	50	25
Permitted Non-Residential Uses	50	50
<b>Maximum Height (feet)</b>	No Limit	45
<b>Maximum Building Coverage</b>	NA	NA
<b>Maximum Impervious Coverage</b>	NA	NA
<b>Floor Area Ratio</b>	NA	NA

-See Article 7 for Supplemental Site Development Regulations.

\*Exception for Homesteads subject to performance standards set forth in Section 11.603. (Amended by Ord. 13-11, 9-17-13)

**11.411.105 Outdoor Storage of Materials:**

1. Outdoor storage is permitted only where incidental to agricultural use.
2. Outdoor storage is permitted for Civic Use Types only where incidental to Maintenance Facilities.

**11.411.106 Fences:** Fences within the AG and RR Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.

**11.411.107 Lighting:** All outdoor lighting of structures and property within the AG and RR Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.

## ZONING DISTRICT REGULATIONS

- 11.411.108 Landscaping and Screening Standards:** All landscaping and screening within the AG and RR Districts shall be in conformance with the provisions of Article 8 of these Regulations.
- 11.411.109 Off-Street Parking:** Parking within the AG and RR Districts shall be in conformance with the provisions of Article 9 of these Regulations.
- 11.411.110 Sign Regulations:** All signs within the AG and RR Districts shall be in conformance with the provisions of Article 10 of these Regulations.
- 11.411.111 Supplemental Use Regulations: Agricultural Uses:** Uses shall be in accordance with the provisions of Section 11.602.

**ZONING DISTRICT REGULATIONS**

**11.411.201 RESIDENTIAL DISTRICTS:**

**11.411.202 Purpose of Districts:**

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
<b>R-1</b>	<b>Low-Density Single-Family Residential</b>	<p>This district is intended to provide for residential neighborhoods, characterized by single-family dwellings on large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.</p> <p>A one story single-family house shall contain at least 1,200 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area; a split-level or multi-level single-family house shall contain at least 1,200 square feet as the total sum of the nearest floor levels separated by not more than five vertical feet, provided that the floor level nearest ground level used for living purposes shall contain at least 500 square feet, exclusive of garages and other accessory floor area; and a one and one-half story or a two story single-family house shall contain at least 800 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area.</p>
<b>R-2</b>	<b>Medium-Density Single-Family Residential</b>	<p>This district is intended to provide for residential neighborhoods, characterized by single-family and duplex dwellings on relatively large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.</p> <p>A one story single-family house or duplex shall contain at least 1,000 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area; a split level or multi-level single family house or duplex shall contain at least 1,000 square feet as the total sum of the nearest floor levels separated by not more than five vertical feet, provided that the floor level nearest ground level used for living purposes shall contain at least 450 square feet, exclusive of garages and other accessory floor area; and a one and one-half story or a two story single-family house or duplex shall contain at least 600 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area.</p>

## ZONING DISTRICT REGULATIONS

### 11.411.202 Purpose of Districts: (Continued)

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
R-3	Urban Family Residential	<p>This district is intended to provide for moderate-density residential neighborhoods, characterized by single-family dwellings on moderately sized lots and low-density, duplex, and townhouse development. 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 minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.</p> <p>A one story single-family house, duplex, or townhouse shall contain at least 900 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area; a split level or multi-level single family house, duplex or townhouse shall contain at least 900 square feet as the total sum of the nearest floor levels separated by not more than five vertical feet, provided that the floor level nearest ground level used for living purposes shall contain at least 400 square feet, exclusive of garages and other accessory floor area; and a one and one-half story or a two story single-family house, duplex, or townhouse shall contain at least 600 square feet of floor area on the ground level exclusive of garages and other attached accessory floor area.</p>
R-4	Multiple-Family Residential	<p>This district is intended to provide locations primarily for multiple-family housing, with supporting and appropriate community facilities. It also permits some non-residential uses such as offices through a special permit procedure, to permit the development of mixed use neighborhoods.</p>
MH	Mobile Home Residential	<p>This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.</p>

## ZONING DISTRICT REGULATIONS

**11.411.203 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the R-1 to R-4 and MH Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	R-1	R-2	R-3	R-4	MH	Addl. Reg.
<b>Residential Uses</b>						<b>11.304 / 11.603-604</b>
Single-Family	P	P	P	P		11.603a
Townhouse		P	P	P		11.603c
Duplex		P	P	P		
Multiple-Family				P		
Group Residential		P	P	P		11.603g
Manufactured Housing Residential	P	P	P	P		
Mobile Home Park						11.603h
Mobile Home Subdivision						11.603i
Retirement Residential	S	P	P	P		
<b>Civic Uses</b>						<b>11.305 / 11.605</b>
Administration	S	S	S	S	S	
Cemetery	S	S	S	S		
Clubs (Recreational)	S	S	S	P		11.605a
Clubs (Social)			S	P	S	11.605a
College/University	S	S	S	P	S	
Convalescent Services			S	P	S	
Cultural Services	S	P	S	P	P	
Day Care (Limited)	P	P	P	P	P	11.605b
Day Care (General)	S	S	S	P	S	11.605b
Emergency Residential	P	P	P	P	P	
Group Care Facility			S	P	P	11.605c
Group Home	S	S	S	P	P	11.605c
Guidance Services				P		
Health Care			S	P		
Hospitals				S		
Maintenance Facilities	S					
Park and Recreation	P	P	P	P	P	
Primary Education	P	P	P	P	P	
Public Assembly						
Religious Assembly	P	P	P	P	P	
Safety Services	P	P	P	P	P	
Secondary Education	S	S	S	P	S	
Utilities	S	S	S	S	S	
<b>Office Uses</b>						<b>11.306</b>
General Offices				S		
Financial Offices				S		
Medical Offices				S		
<b>Additional Uses</b>						
Bed & Breakfast	S	S	S	S		11.606d
Funeral Service				S		11.307n
Alternative Energy Production Devices	S	S	S	S	S	11.311a / 11.612
Amateur Radio Tower	P	P	P	P	P	11.311b / 11.612
Wind Energy Conversion Systems	S	S	S	S		11.311g / 11.612c

*(Amended by Ord. 13-11, 9-17-13; 15-03, 6-2-15)*

## ZONING DISTRICT REGULATIONS

**11.411.204 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted:

1. Private garage and parking for residential uses, in conformance with the provisions of Section 11.704 b(6).
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 611 (a) of these Regulations.
4. Garage sales, provided that the frequency of such sales at any one location shall not exceed a period of three continuous days within a one month period, or four sales during any twelve month period.

**11.411.205 Height and Area Regulations:** Maximum height and minimum area regulations within Districts shall be as follows:

Regulator	R-1	R-2 (Note 1)	R-3 (Note 1)	R-4	MH
<b>Minimum Lot Area (square feet)</b>					2.5 Acres
Single Family	8,400	7,000	6,000	6,000	
Townhouses	---	5,000	3,000	2,000	
Duplex	---	10,000	8,000	7,200	
Multi-Family				9,600	
Other Permitted Uses	8,400	10,000	10,000	10,000	
<b>Minimum Lot Width (feet)</b>	70				
Single Family		60	60	60	
Townhouses		40	25	25	
Duplex		80	70	60	
Multi-Family				80	
Other Permitted Uses				80	
Mobile Home Park					150
<b>Site Area per Housing Unit (square feet) by type of residential</b>					
Single-Family	8,400	7,000	6,000	6,000	5,000
Townhouse		5,000	3,000	2,000	Per Unit
Duplex		5,000	4,000	3,600	
Multi-family			NA	1,500	
<b>Minimum Yards (feet)</b>					
Front Yard	25	25	25	25	50
Street Side Yard	25	15	15	15	50
Interior Side Yard (Note 2)					50
Residential	7.5	7.5	7.5	7.5	
Apartment of 2-3 stories	NA	NA	NA	10	
Apartment more than 3 stories	NA	NA	NA	15	
Permitted Non-Residential Uses	20	20	20	20	
Rear Yard	*	*	*	*	50
				(Note 2)	
<b>Maximum Height (feet)</b>	35	35	35	35	38
<b>Maximum Building Coverage</b>	40%	50%	60%	55%	40%
<b>Maximum Impervious Coverage</b>	55%	65%	75%	75%	60%
<b>Floor Area Ratio</b>	NA	NA	NA	NA	NA
<b>Max. #of Parking Located in Street Yard</b>					
Residential	NA	NA	NA	NA	NA
Other Uses					35%

\*The greater of twenty percent of the lot depth or twenty feet.  
**-See Article 7 for Supplemental Site Development Regulations.**  
*(Amended by Ord. 13-11, 9-17-13)*

## ZONING DISTRICT REGULATIONS

**Note 1:**

See Section 603 for supplemental regulations governing single-family attached and townhouse residential use types.

**Note 2:**

One Foot of height may be added up to a maximum of 45 feet for each additional one foot provided in front, rear, and side yard setbacks beyond the required minimum.

**11.411.206 Outdoor Storage of Materials:**

1. Outdoor storage is permitted only within an accessory building.
2. Outdoor storage is permitted for Civic Use Types only where incidental to Maintenance Facilities.

**11.411.207 Fences:** Fences within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.

**11.411.208 Lighting:** All outdoor lighting of structures and property within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.

**11.411.209 Landscaping and Screening Standards:** All landscaping and screening within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Article 8 of these Regulations.

**11.411.210 Off-Street Parking:** Parking within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Article 9 of these Regulations.

**11.411.211 Sign Regulations:** All signs within the R-1 to R-4 and MH Residential Districts shall be in conformance with the provisions of Article 10 of these Regulations.

**11.411.212 Supplemental Design Standards for Residential Districts:** All structures shall be in accordance with the provisions of Section 11.604.

## ZONING DISTRICT REGULATIONS

### 11.411.301 COMMERCIAL DISTRICTS:

#### 11.411.302 Purpose of Districts:

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
MX	Mixed Use Urban	This district recognizes the potential development or emergence of areas which contain a combination of residential, commercial, and office uses. These areas should include special aesthetic and sign design standards which will help enhance their character as urban neighborhoods which permit various types of uses to be located together to mutual benefit.
LC	Limited Commercial/Office	This district reserves appropriately located area for office development and a limited variety of low-impact commercial facilities which serve the needs of residents of surrounding residential communities. The commercial and office uses permitted are compatible with nearby residential areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.
CC	Community Commercial	This district is intended for commercial facilities which serve the needs of markets ranging from several neighborhoods to the overall region. While allowed commercial and office uses are generally compatible with nearby residential areas, traffic and operating characteristics may have more negative effects on residential neighborhoods than those permitted in the LC District. CC Districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial sub-centers.
DC	Downtown Commercial District	This district is intended to provide appropriate development regulations for Downtown Waverly. Mixed uses are encouraged within the DC District. The grouping of uses is designed to strengthen the downtowns role as a center for trade, service, and civic life.
GC	General Commercial	This district accommodates a variety of commercial uses, some of which have significant traffic or visual effect. These districts may include commercial uses which are oriented to services, including automotive services, rather than retail activities. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from residential districts.

## ZONING DISTRICT REGULATIONS

**11.411.303 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the Commercial Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	MX	LC	CC	DC	GC	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)				<b>11.307 / 11.606 11.607(*)</b>
Ag Sales/Service			S	S	P	
Auto Rental/Sales	S		S	P	P	606c
Auto Services	S	S	S	P	P	606
Body Repair	S		S	S	P	606a
Equip Rental/Sales	S			S	P	606c
Equipment Repair					P	606a
Bed and Breakfast	P	P	P	P	P	606d
Business Support Services	P	P	P	P	P	
Business/Trade School	P		P	P	P	
Campground			S		S	606e
Cocktail Lounge	S		S	S	P	
Commercial Rec (Indoor)	S	S	P	P	P	
Commercial Rec (Outdoor)					P	
Communication Service	P	S	P	P	P	
Construction Sale/Service	S		S	S	P	
Consumer Service	P	P	P	P	P	
Convenience Storage			S		S	606f
Firework Sales			P			
Food Sales (Convenience)	P	S	P	P	P	
Food Sales (Limited)	P	P	P	P	P	
Food Sales (General)	S	S	P	P	P	
Food Sales (Super markets)	S		P	P	S	
Funeral Service	P	P	P	P	P	
Gaming Facility			S	S	S	
Kennels					S	606g
Laundry Services	S			S	P	
Liquor Sales			P	P	P	
Lodging	P		P	P	P	
Personal Improvement	P	P	P	P	P	
Personal Services	P	P	P	P	P	
Pet Services	P	P	P	P	P	
Research Services	P	P	P	P	P	
Restaurants (Drive-in)	S	S	P	S	P	
Restaurants (General)	P	P	P	P	P	606h
Restricted Business						606i
Retail Services (Limited)	P	P	P	P	P	
Retail Services (Medium)	P	S	P	P	P	
Retail Services (Mass)			P	S	P	

## ZONING DISTRICT REGULATIONS

Use Types	MX	LC	CC	DC	GC	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)				<b>11.307 / 11.606 11.607(*)</b>
Stables					S	
Surplus Sales				S	P	
Trade Services	P		S	S	P	
Vehicle Storage (Long-term)					S	
Veh. Storage (Short-term)	S				P	
Veterinary Services	P	S	S	S	P	
<b>Office Uses</b>						<b>11.306 / 11.607</b>
General Offices	P	P	P	P	P	
Financial Offices	P	P	P	P	P	
Medical Offices	P	P	P	P	P	
<b>Parking Uses</b>						<b>11.308</b>
Off-Street Parking	S		S	P	P	
Parking Structure			S	P	S	
<b>Residential Uses</b>						<b>11.304 / 11.603</b>
Single-Family	P	S				603a
Duplex	P	S				
Two-Family	P	S				603c
Townhouse	P	P		P		603b
Multiple-Family		P	S	P	S	
Downtown Residential				P		603d
Group Residential	S	S	S			603e
Manufactured Housing Residential		S				
Mobile Home Park						603f
Mobile Home Subdivision						603g
Retirement Residential	P	P	S	P	S	
<b>Civic Uses</b>						<b>11.305 / 11-605</b>
Administration	P	P	P	P	P	
Cemetery						
Clubs (Recreational)	P	P		S	P	605a
Clubs (Social)	P	P	P	P	P	605a
College/Universities	P	P	P	P	P	
Convalescent Services	P	P	P	S		
Cultural Services	P	P	P	P	P	
Day Care (Limited)	P	P	P	P	S	605b
Day Care (General)	P	P	P	P	P	605b
Detention Facilities					S	
Emergency Residential	P	P	P	P		
Group Care Facility	P	P	P	P	P	605c
Group Home	P	P	P	P	P	605c
Guidance Services	P	P	P	P	P	
Health Care	P	P	P	P	P	
Hospitals	S	S	S	S	S	

## ZONING DISTRICT REGULATIONS

Use Types	MX	LC	CC	DC	GC	Addl. Reg.
<b>Civic Uses (Cont.)</b>						<b>11.305 / 11.605</b>
Maintenance Facilities	S				P	
Park and Recreation	P	P	P	P	P	
Postal Facilities	P	P	P	P	P	
Primary Education	P	P	P	P	S	
Public Assembly	S	S	S	P	P	
Religious Assembly	P	P	P	P	P	
Safety Services	P	P	P	P	P	
Secondary Education	P	S	S	S	S	
Utilities	S	S	S	S	P	
<b>Industrial Uses</b>						<b>11.309</b>
Custom Manufacturing			S	P	P	
Recycling Collection			S	S	P	
Warehousing (Enclosed)				S	S	
<b>Transportation Uses</b>						<b>11.310</b>
Railroad Facilities				S	S	
Truck Terminal					S	
Transportation Terminal			S	S	S	
<b>Miscellaneous Uses</b>						<b>11.311</b>
Alternative Energy Production Devices	S	S		S	S	11.311a
Amateur Radio Tower	P	P	P	P	P	11.311b / 11.612
Communications Tower						11.612a
Construction Batch Plant					P	
Wind Energy Conversion Systems**	S	S		S	S	11.311g / 11.612c

*(Amended by Ord. 15-03, 6-2-15)*

**11.411.304 Outdoor Storage in Commercial Districts:**

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 Auto Services, Equipment Repair, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Article 11.805. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.
3. Outdoor storage is permitted in Civic Use Types only where incidental to Maintenance Facilities.

**11.411.305 Permitted Accessory Uses:** The following accessory uses and structures shall be permitted:

1. Private garage and parking for residential uses, in conformance with the provisions of Section 11.704 b(6).
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 611 (a) of these Regulations.
4. Garage sales, provided that the frequency of such sales at any one location shall not exceed a period of three continuous days within a one month period, or four sales during any twelve month period.

**-See Article 7 for Supplemental Site Development Regulations.**

## ZONING DISTRICT REGULATIONS

**11.411.306 Height and Area Regulations:** Maximum height and minimum area regulations within Districts shall be as follows:

Regulator	MX	LC	CC	DC	GC
<b>Minimum Yards (feet)</b>					
Front Yard	(Note 2)	25	25	0	25
Street Side Yard	15	15	15	0	15
Interior Side Yard (Note 1)					
1 to 1.5 stories	7	10	0	0	0
2-3 stories	10	10	10	0	0
More than 3 stories	12	12	10	0	0
Non-Residential Uses	10	10	10	0	0
Rear Yard	25	25	25	0	20
<b>Maximum Height (feet)</b>	45	45	50	No limit	50
<b>Maximum Building Coverage</b>	50%	50%	60%	100%	70%
<b>Maximum Impervious Coverage</b>	70%	70%	80%	100%	90%
<b>Floor Area Ratio</b>	1.0	0.50	1.0	No limit	1.0
	1.0				
<b>Maximum Amount of Total Parking Located in Street Yard</b>					
Residential	NA	NA	NA	NA	NA
Other Uses	35%	50%	NA	35%	NA
<b>Minimum Lot Area (square feet)</b>				None	
One-Family	6,000	6,000			---
Duplex, Townhouses	7,200	7,200			---
Multi-Family	---	9,600	8,000		---
Other Permitted Uses	8,000	6,000	6,000		6,000
<b>Minimum Lot Width (feet)</b>				None	
One-Family	60	60			
Duplex	60	60			
Townhouses	20	20			
Multi-Family	80	80	80		
Other Permitted Uses	80	80	50		50
Mobile Home Park					
<b>Site Area per Housing Unit (square feet) by type of residential</b>					
Single-Family	6,000	6,000			NA
Two-family, duplex	3,600	3,600			
Townhouse	2,000	2,000		2,000	
Multi-family	---	1,500	1,500	1,000	

-See Article 7 for Supplemental Site Development Regulations.

**Note 1:**

One foot of height may be added up to a maximum of 45 feet for each additional one foot provided in front, rear, and side yard setbacks beyond the required minimum.

**Note 2:**

Normal minimum setback is 25 feet. Front yard setback may be reduced to 15 feet if:

1. No parking is placed within the street yard.
2. The entire street yard area is landscaped, with the exception of driveways to parking areas or pedestrian accesses to the principal building on the site.

## ZONING DISTRICT REGULATIONS

- 11.411.307 Fences:** Fences within the Commercial Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.
- 11.411.308 Lighting:** All outdoor lighting of structures and property within the Commercial Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.
- 11.411.309 Landscaping and Screening Standards:** All landscaping and screening within the Commercial Districts shall be in conformance with the provisions of Article 8 of these Regulations.
- 11.411.310 Off-Street Parking:** Parking within the Commercial Districts shall be in conformance with the provisions of Article 9 of these Regulations.
- 11.411.311 Sign Regulations:** All signs within the Commercial Districts shall be in conformance with the provisions of Article 10 of these Regulations.
- 11.411.312 Supplemental Design Standards for Office and Commercial Uses in the MX and LC Districts:** All structures shall be in accordance with the provisions of Section 11.607.

## ZONING DISTRICT REGULATIONS

### 11.411.400 INDUSTRIAL DISTRICTS:

#### 11.411.401 Purpose of Districts:

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
<b>BP</b>	<b>Business Park</b>	This district is designed to promote the development of planned business parks that accommodate corporate offices, research facilities, and structures which can combine office, distribution, and limited industrial uses. These facilities serve a more regional audience, but may provide services to local residents. They are characterized by extensive landscaping, abundant parking facilities, and good visual and pedestrian relationships among buildings.
<b>LI</b>	<b>Limited Industrial</b>	This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.
<b>GI</b>	<b>General Industrial</b>	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

## ZONING DISTRICT REGULATIONS

**11.411.402 Permitted Principle Uses and Specially Permitted Uses:** “P” Permitted Uses shall be permitted as uses by right; “S” Specially Permitted Uses may be approved as uses in the Industrial\_Districts if a special permit for such use has been obtained in accordance with Section 11.1203 of these Regulations.

Use Types	BP	LI	GI	Addl. Reg.
<b>Industrial Uses</b>				<b>11.309</b>
Agricultural Industry		S	P	
Construction Yards		P	P	
Custom Manufacturing	P	P	P	
Light Industry	S	P	P	
General Industry		P	P	
Heavy Industry			S	
Recycling Collection		P	P	
Recycling Processing		P	P	
Resource Extraction			S	608a
Salvage Services		S	S	608b
Warehousing (Enclosed)	P	P	P	
Warehousing (Open)		S	P	
<b>Transportation Uses</b>				<b>11.310</b>
Aviation	S	S	P	
Railroad Facilities	S	P	P	
Truck Terminal		S	P	
Transportation Terminal		P	P	
<b>Miscellaneous Uses</b>				<b>11.311</b>
Alternative Energy Production Devices	P	P	P	
Amateur Radio Tower	P	P	P	
Communications Tower		S		612a
Construction Batch Plant		S	P	
Landfill (Non-Putrescible)			S	612b
Landfill (Putrescible)				612b
Wind Energy Conversion Systems**	P	P	P	311a 614
On-Site Dwelling for Resident Manager***	S	P	P	612c

Use Types	BP	LI	GI	Addl. Reg.
<b>Civic Uses</b>				<b>11.305</b>
Administration	P	P	P	
Cemetery				
Clubs (Recreational)	S	P	P	605a
Clubs (Social)	P	P	P	605a
College/University	P	P		
Convalescent Services				
Cultural Services	P	P		
Day Care (Limited)	S	S	S	605b
Day Care (General)	P	S	S	605b
Detention Facilities		S	S	
Emergency Residential				
Group Care Facility				605c
Group Home				605c
Guidance Services	P	P	P	
Health Care	P	P	P	
Hospitals	P	S	S	
Maintenance Facilities		P	P	
Park and Recreation	P	P	P	
Postal Facilities	P	P	P	
Primary Education				
Public Assembly	S			
Religious Assembly		S		
Safety Services	P	P	P	
Secondary Education				
Utilities		P	P	
<b>Office Uses</b>				
General Offices	P	P	P	
Financial Offices	P	P	P	
Medical Offices	P	P	S	

Communications Tower (Amended by Ord. 04-04, 5-3-04)

Salvage Services (Amended by Ord. 04-05, 7-5-04; 06-04, 4-17-06)

\*All Industrial use types are subject to performance standards set forth in Section 11.608 and 11.609.

\*\*Wind Energy Conversion Systems, see Section 11.311 (g)

\*\*\*On-Site Dwelling for Resident Manager Permitted for Self-Storage Warehousing Only. (Amended by Ord. 14-05, 7-1-14)

## ZONING DISTRICT REGULATIONS

Use Types	BP	LI	GI	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)		<b>11.307 / 11.606 11.607(*)</b>
Ag Sales/Service		P	P	
Auto Rental/Sales				606c
Auto Services		P	P	606
Body Repair		P	P	606a
Equip Rental/Sales		P	P	606c
Equipment Repair		P	P	606a
Bed and Breakfast				606d
Business Support Services	P	P	P	
Business/Trade School	P	P	P	
Campground				606e
Cocktail Lounge	S	S	S	
Commercial Rec (Indoor)	P	P	P	
Commercial Rec (Outdoor)		P	P	
Communication Service	P	P	P	
Construction Sale/Service		P	P	
Consumer Service	P	P		
Convenience Storage		P	P	606f
Firework Sales				
Food Sales (Convenience)	P	P	P	
Food Sales (Limited)	P	P	P	
Food Sales (General)				
Food Sales (Super markets)				
Funeral Service	P	P	P	
Gaming Facility		P	P	
Kennels		P	P	606g
Laundry Services		P	P	
Liquor Sales		S		
Lodging	P	S		
Personal Improvement	P	P	P	
Personal Services	P	P	P	
Pet Services	P	P		
Research Services	P	P	P	
Restaurants (Drive-in)		S	S	
Restaurants (General)	P	S	S	606h
Restricted Business		S	P	606i
Retail Services (Limited)	S			
Retail Services (Medium)	P			
Retail Services (Mass)				

*(Amended by Ord. 14-05, 7-1-14)*

Use Types	BP	LI	GI	Addl. Reg.
<b>Commercial Uses</b>	(*)	(*)		<b>11.307 / 11.606 11.607(*)</b>
Stables				
Surplus Sales		P	P	
Trade Services	P	P	P	
Vehicle Storage (Long-term)		P	P	
Veh. Storage (Short-term)		P	P	
Veterinary Services		P	P	

**ZONING DISTRICT REGULATIONS**

**11.411.403 Outdoor Storage in Industrial Districts:**

1. Outdoor storage is permitted where incidental to Industrial uses within the GI and LI Zoning Districts. Open storage of materials and equipment shall be permitted only within an area surrounded and screened by a solid wall or fence or compact evergreen hedge (with solid gates where necessary), minimum height of six (6) feet and maximum height of eight (8) feet, provided that no material stored to a height greater than that of the fence, wall or hedge.
2. Outdoor storage is permitted where incidental to landfills.
3. Outdoor storage is permitted in Civic Use Types only where incidental to Maintenance Facilities.

**11.411.404 Permitted Accessory Uses.**

**11.411.405 Height and Area Regulations:** Maximum height and minimum area regulations within Districts shall be as follows:

Regulator	BP	LI	GI
<b>Minimum Lot Area (square feet)</b>	10,000	7,000	7,000
<b>Minimum Lot Width (feet)</b>	80	60	60
<b>Minimum Yards (feet)</b>			
Front Yard	25	25	50
Street Side Yard	25	25	25
Interior Side Yard	10	0	0
Rear Yard	25	25	25
<b>Maximum Height (feet)</b>	No limit	75	No limit
<b>Maximum Building Coverage</b>	60%	70%	70%
<b>Maximum Impervious Coverage</b>	80%	90%	90%
<b>Floor Area Ratio</b>	2.0	1.0	No limit
<b>Maximum Amount of Total Parking Located in Street Yard</b>	50%	No limit	No limit

-See Article 7 for Supplemental Site Development Regulations.

**11.411.406 Fences:** Fences within the Industrial Districts shall be in conformance with the provisions of Section 11.707 of these Regulations.

**11.411.407 Lighting:** All outdoor lighting of structures and property within the Industrial Districts shall be in conformance with the provisions of Section 11.708 of these Regulations.

**11.411.408 Landscaping and Screening Standards:** All landscaping and screening within the Industrial Districts shall be in conformance with the provisions of Article 8 of these Regulations.

**11.411.409 Off-Street Parking:** Parking within the Industrial Districts shall be in conformance with the provisions of Article 9 of these Regulations.

**11.411.410 Sign Regulations:** All signs within the Industrial Districts shall be in conformance with the provisions of Article 10 of these Regulations.

## SPECIAL AND OVERLAY DISTRICTS

# 5

## ARTICLE FIVE

### SPECIAL AND OVERLAY DISTRICTS

#### 11.501 General Purpose

Special Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. 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 Waverly.

The Overlay Districts are designed to achieve the following objectives:

- a. To recognize special conditions in specific parts of the City which require specific regulation.
- b. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

## SPECIAL AND OVERLAY DISTRICTS

### MU MIXED USE DISTRICT

#### 11.502 Purpose

The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the city which are appropriate for a mixture of residential, commercial, office, and accessory uses. The District permits mixing residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments.

#### 11.503 Permitted Uses

Each ordinance establishing an MU District establishes the use types permitted within its boundaries.

#### 11.504 Site Development Regulations

- a. The minimum area of any MU District is one acre.
- b. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council, following a recommendation by the Planning and Zoning Commission. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.
- c. Applications for approval must contain at a minimum the following information:
  1. A detailed site map, including:
    - (a) a boundary survey
    - (b) site dimensions
    - (c) contour lines at no greater than five foot intervals
    - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
    - (e) description of adjacent land uses
    - (f) utility service to the site and easements through the site
    - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
  2. A development plan, including:
    - (a) a site layout, including the location of proposed buildings, parking, open space, and other facilities
    - (b) location, capacity, and conceptual design of parking facilities
    - (c) description of the use of individual buildings
    - (d) description of all use types to be included in the project or area, and maximum floor area devoted to each general use

## SPECIAL AND OVERLAY DISTRICTS

- (e) maximum height of buildings
  - (f) schematic location and design of open space on the site, including a landscaping plan
  - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
  - (h) schematic building elevations and sections if required to describe the project
  - (i) grading plans
  - (j) proposed sewer and utility improvements
  - (k) location, sizes, and types of all proposed signage.
3. Specific proposed development regulations for the project, including:
- (a) the specific use types permitted within the proposed district
  - (b) maximum floor area ratios
  - (c) front, side, and rear yard setbacks
  - (d) maximum height
  - (e) maximum building and impervious coverage
  - (f) design standards applicable to the project.
4. A traffic impact analysis, if required by the City.

### 11.505 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each Mixed Use District application. The City may impose reasonable conditions, as deemed necessary to ensure that a Mixed Use Development 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 MU 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 MU Mixed Use District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An Ordinance adopting a Mixed Use District shall require a favorable simple majority of the City Council for approval.

## SPECIAL AND OVERLAY DISTRICTS

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

### 11.506 Amendments

The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:

- a. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.
- b. The amendment is consistent with the provisions of this section.
- c. The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, mixture of use types, and physical design.
- d. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Council for action.

### 11.507-9 Reserved

## PUD PLANNED UNIT DEVELOPMENT DISTRICT *(Repealed by Ord. 02-20, 7-15-02)*

11.510 Purpose *(Repealed by Ord. 02-20, 7-15-02)*

11.511 Permitted Uses *(Repealed by Ord. 02-20, 7-15-02)*

11.512 Site Development Regulations *(Repealed by Ord. 02-20, 7-15-02)*

11.513 Access to Public Streets *(Repealed by Ord. 02-20, 7-15-02)*

11.514 Application Process *(Repealed by Ord. 02-20, 7-15-02)*

11.515 Adoption of District *(Repealed by Ord. 02-20, 7-15-02)*

11.516 Amendment Procedure *(Repealed by Ord. 02-20, 7-15-02)*

11.517 Building Permits *(Repealed by Ord. 02-20, 7-15-02)*

11.518 Termination of PUD District *(Repealed by Ord. 02-20, 7-15-02)*

11.519 Reserved *(Repealed by Ord. 02-20, 7-15-02)*

## SPECIAL AND OVERLAY DISTRICTS

### TN TRADITIONAL NEIGHBORHOOD CHARACTER DISTRICT

#### 11.520 Purpose

The TN Traditional Neighborhood Character Overlay District enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas that display the historic character of the traditional town of Waverly. The District recognizes the importance of these districts to the character of Waverly and provides for their conservation.

#### 11.521 Procedure for Adoption

a. Proposal

The creation of a TN Traditional Neighborhood Character 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 a TN Overlay District must include:

1. A statement describing the proposed district's special dimensional features and stating the reasons for proposal of the district
2. A map indicating the boundaries of the proposed TN Overlay District, specifying the base district(s) included within these boundaries
3. Supplemental site development regulations, design criteria, and performance standards that apply to the proposed district. Such regulations may include maximum setbacks, dimensional requirements for street sections, or other features that are pertinent to the quality of the neighborhood environment.

#### 11.522 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each TN 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 TN 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 TN Overlay District.
- f. The Ordinance adopting the TN 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 TN Overlay District shall require a favorable vote of a simple majority of the City Council for approval.

## SPECIAL AND OVERLAY DISTRICTS

- h. Upon approval by the City Council, each TN 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 a TN Overlay District shall be made and filed as provided by the Code of Nebraska, and amendments thereto.

### **11.523 Development and Building Permits within a TN District**

- a. All plans for development within a TN District shall be reviewed by the Planning Commission.
- b. Prior to the issuance of any building permits or other authorization for development, all projects requiring a building or development in the TN District shall be reviewed by the Planning Commission for consistency with the design criteria of the TN District and determined to be consistent with the regulations of the district. The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within an TN District unless it is in compliance with the approved site development regulations for the TN District, or any approved amendments.
- c. A denial of a project in a TN District by the Planning Commission may be appealed to the Board of Adjustment.

## SPECIAL AND OVERLAY DISTRICTS

### FP SALT CREEK VALLEY FLOODPLAIN/ FLOODWAY OVERLAY DISTRICT

#### 11.530 **Statutory Authorization, Findings of Fact and Purposes** *(Amended by Ord. 11-03, 2/7/11)* *(Amended by Ord. 13-11; 9/17/13)*

##### a. Statutory Authorization

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the City Council of Waverly, Nebraska, ordains as follows:

##### b. Findings of Fact

###### 1. Flood Losses Resulting from Periodic Inundation

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

###### 2. General Causes of the Flood Losses

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

###### 3. 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 regulatory 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 is selected for this ordinance. It 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 percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated April 16, 2013 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- c. Computation of the floodway required to convey 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 water surface increase along the floodway profile.
- 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.

## SPECIAL AND OVERLAY DISTRICTS

### c. Statement of 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 11.530, B, 1, 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 which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

### **11.531 General Provisions** *(Amended by Ord. 11-03, 2/7/11) (Amended by Ord. 13-11; 9/17/13)*

#### a. Lands To Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Waverly identified on the Flood Insurance Rate Map (FIRM) dated April 16, 2013, and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 11.533 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 11.534, 11.535, and 11.536.

#### b. The Enforcement Officer

The Zoning Administrator of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

#### c. Rules For Interpretation Of District Boundaries

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway 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 Waverly Board of Adjustment will resolve the dispute. The regulatory 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 Waverly Board of Adjustment and to submit his own technical evidence, if he so desires.

#### d. Compliance

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

## SPECIAL AND OVERLAY DISTRICTS

### e. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existent 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.

### f.. 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 statutes.

### g. 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 man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of Waverly, Nebraska 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.

### h. Severability

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

### i. Appeal

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Waverly Board of Adjustment.

## 11.532 Development Permit

### a. Permit Required

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 11.540.

1. No Elevation Certificate is needed for house additions or accessory structures in the Floodplain if the entire Lot has been issued an LOMC (Letter of Map Change).
2. The construction of an accessory structure that is 80 sqft. or greater will require an Elevation Certificate even if the primary structure has already obtained an Elevation Certificate.

*(Amended by Ord. 13-11; 9-17-13, 16-14; 10-11-16)*

## SPECIAL AND OVERLAY DISTRICTS

### 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 all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - b. Review applications 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. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
  - d. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - e. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
  - g. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
  - h. When floodproofing 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 floodplain development 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 development to be covered by the floodplain development permit.
2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
3. Indicate the use or occupancy for which the proposed development is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the Zoning Administrator.

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### 11.533 Establishment of Zoning Districts

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

### 11.534 Standards for Floodplain Development

- a. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
- b. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; zones shall be subject to all development provisions of Section 11.535. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
- c. Until a floodway has been designated, no development or substantial improvement may be permitted within special however, the water surface elevation was not provided. The unnumbered A flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
- d. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site 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, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
- e. Storage of Material and Equipment
  1. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

## SPECIAL AND OVERLAY DISTRICTS

- f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, 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, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

### 11.535 Flood Fringe Overlay District - (Including AO and AH Zones)

- a. Permitted Uses

Any use permitted in Section 11.536 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 11.534 are met.

- b. Standards for the Flood Fringe Overlay District

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation.
2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in Section 11.532 B, 2.
3. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be 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:
    - (1) 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;

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- (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
  - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (4) Any additions to the manufactured home be similarly anchored.
- b. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
- (1) Outside of a manufactured home park or subdivision,
  - (2) In a new manufactured home park or subdivision,
  - (3) In an expansion to an existing manufactured home park or subdivision, or
  - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,
- be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 11.535, 5A.
- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 11.534,5B be elevated so that either:
- (1) The lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation, or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 11.534, 5A.
6. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
7. Located within the areas of special flood hazard established in Section 11.531, A 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 within AO Zones:

## SPECIAL AND OVERLAY DISTRICTS

- a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- b. All new construction and substantial improvements of non-residential structures shall:
  - (1) Have the lowest floor elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  - (2) Together with attendant utility and sanitary facilities be completely floodproofed 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 effects of buoyancy. Such certification shall be provided to the official as set forth in Section 11.532, B, 2, g.
- c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

### 11.536 Floodway Overlay District

#### 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. The following are recommended uses for the Floodway District:

1. Agricultural uses such as general farming, pasture, nurseries, forestry.
2. Residential uses such as lawns, gardens, parking and play areas.
3. Non-residential areas such as loading areas, parking and airport landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

#### b. Standards for the Floodway Overlay District

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 11.534 and 11.535. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 11.534,D,(d.) of this ordinance, in meeting the standards of this section.

### 11.537 Variance Procedures

1. The Waverly Board of Adjustment as established by the City of Waverly, Nebraska shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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2. The Waverly 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.
  3. 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 Section 19-912, R.R.S. 1943.
  4. In passing upon such applications, the Waverly Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
    - a. The danger that materials may be swept onto other lands to the injury of others;
    - b. The danger to life and property due to flooding or erosion damage;
    - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - d. The importance of the services provided by the proposed facility to the community;
    - e. The necessity to the facility of a waterfront location, where applicable;
    - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
    - g. The compatibility of the proposed use with existing and anticipated development;
    - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
    - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
    - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
    - k. 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.
- a. Conditions for Variances
1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (11.537,A,2-11.537,A,6 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  3. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile 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.

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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 a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

### 11.538 Nonconforming Use

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - a. If such use is discontinued for Six (6) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of Three (3) months.
  - b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. 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, provided that the alteration shall not preclude its continued designation.

### 11.539 Penalties for Violation

Penalties for violation shall be in accordance with Section 11.1214 of the Waverly Zoning Regulations.

Nothing herein contained shall prevent the City of Waverly, Nebraska or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### a. Amendments

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Waverly, Nebraska. At least 10 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the

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National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

### 11.540 Definitions

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

**"Appeal"** means 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"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance 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.

**"Base Flood"** means the flood having one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**"Existing Construction"** means (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."

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The usual and rapid accumulation of runoff of surface waters from any source.

**"Flood Fringe"** is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

**"Flood Insurance Rate Map (FIRM)"** means 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"** is 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.

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**"Floodplain"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height 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"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**"Lowest floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"New Construction"** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**"Overlay District"** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure is above ground.

**"Recreational Vehicle"** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently

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towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Special Flood Hazard Area"** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

**"Start of Construction"** [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Variance"** means a grant of relief to a person from the terms of a floodplain management ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

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### HO Highway Corridor Overlay District

**11.550 Intent:** The City of Waverly has established basic site and building development criteria to be implemented within the boundaries of this overlay district. The Highway Corridor Overlay District has been established in order to implement the policies and guidelines developed by the City of Waverly. These criteria include but are not limited to the following: landscaping, building material selection, lighting, and road development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridor and entrance into Waverly along Highways 6 and along Amberly Road. Guiding development in this manner promotes the general health, safety, and welfare of the residents within the zoning jurisdiction of Waverly by providing quality design and construction which will also aid in the protection of past and future investment in the corridors. The regulations in the overlay district are in addition to those of the underlying zoning district for the property and affect all new or expanded (20% or more of original footprint) public, commercial, industrial, multi-family residential, residential subdivisions (fencing), and mixed use buildings and properties. Where regulations are in direct conflict with other regulations in this ordinance, the stricter shall apply.

#### 1. PURPOSE:

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Waverly. Pertinent to appearance is the design of the site, building and structures, planting, signs, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation, or variety but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the city, preserve taxable values, and promote the public health, safety, and welfare.

#### 2. GEOGRAPHIC AREA:

The Highway Corridor Overlay District extends generally 660 feet (1/8 mile) to 2,640 feet (1/2 mile) from the right-of-way line on either side of U.S. Highway 6 and also includes properties adjacent to Amberly Road. The Downtown sub-area includes the old downtown area of Waverly. Entrance nodes should also be recognized at the east and west sides of the city. In the event the standards of this overlay district are in conflict with those of the underlying zoning district, the standards of the overlay district shall apply. If a site or property is partially covered by said overlay district, then the entire portion of the site or property facing the corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

### **11.551 Permitted Uses:**

The following principal uses are permitted in the HO District.

1. All permitted uses contained in the underlying base zoning district unless specifically noted in these regulations.

### **11.552 Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the HO Corridor Overlay District as recommended by the Planning Commission and City Council and approved by the City Council.

1. All conditional uses contained in the underlying base zoning district unless specifically noted in these regulations.

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### 11.553 Criteria for Application:

1. Structures Required for Review
  - A. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.
  - B. All developments consisting of more than one principal building, mixed-uses, multiple-pad development, and/or similar developments shall comply.
  - C. Rehabilitation

The model design standards shall apply to existing, conforming development within the corridor when changes (renovation, restoration, modification, addition, or retrofit; collectively referred to as rehabilitation) are proposed to a structure or a site that will meet or exceed the **standard** of 20 percent of the existing size or 50 percent of the current appraised value of the structure or site as established by the county, whichever is less. Rehabilitation costs or measurements shall be aggregated over a five year period to determine whether the rehabilitation is subject to the design standards.

Rehabilitation projects shall conform to the model design standards to the greatest extent possible. Where conformance is not possible for all or any part of a standard, the applicant shall provide written explanation for each area of non-compliance.
  - D. Exceptions

The standards shall not apply to construction of individual homes on existing lots or agricultural use and operations but shall apply to new residential subdivisions that consist of more than one lot (subdivision perimeter fencing).
2. Process.
  - A. Subdivision and/or Building Permit Approval: All Commercial, Industrial, and Multi-Family building projects within the corridor of the City of Waverly are required to receive Subdivision and/or building permit approval. As a condition of its subdivision and/or permit approval, all commercial, industrial, and multi-family building projects within the required geographic region shall comply with the Corridor Overlay District regulations and Corridor Overlay District Design Guideline Booklet. The Developer shall place maintenance provisions required by this section within all restrictive covenants.
  - B. Pre-application Conference: A pre-application conference with city staff is required to give the applicant an opportunity to discuss plans before a great deal of time or money is expended.
  - C. Application for Design Review: The applicant shall fill out the "Application for Certificate of Approval" and submit it along with the required submittals. See Corridor Overlay District Design Guideline Booklet for a listing of required submittals.
  - D. Design Review: City staff (or Design Review Board/Architect) will review the submittal documents for compliance with regulations and intent of the overlay district and those identified in the Corridor Overlay District Design Guideline Booklet.
  - E. Certificate of Approval: Upon a successful review, the City of Waverly will issue to the applicant a Certificate of Approval. A copy of this shall be included with the Building Permit documents in order to receive a Building Permit.
  - F. Appeals: In the event where the Applicant, City staff, and City Design Review Architect/Board cannot come to an agreement, the applicant may appeal the decision by requesting an amendment to the Subdivision Agreement (if appropriate) from the Waverly City Council.
  - G. Certificate of Occupancy Permit: After the building permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.

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- H. Maintenance of Design requirements: The property owner is required to maintain the design requirements of the project. In addition to the remedies of Section 11.1214, neglect in maintaining the structure's appearance, landscaping, lighting and other design requirements may result in the revocation of the Occupancy Permit.
  - I. Fees: Fees may apply to each individual step as established in the Master Fee Schedule.
3. Factors for Evaluation.
- The following factors and characteristics that affect the appearance of a development will govern the evaluation of a design submission:
- A. Conformance of regulations and the Building Design Criteria.
  - B. Logic of design.
  - C. Exterior space utilization.
  - D. Architectural character.
  - E. Attractiveness material selection.
  - F. Harmony and compatibility.
  - G. Circulation-vehicular and pedestrian.
  - H. Maintenance aspects.

### 11.554 Criteria for Appearance:

- 1. Relationship of Buildings to Site  
The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
  - A. Site planning in which setbacks and yards are in excess of standard commercial zoning restrictions is encouraged to provide an interesting relationship between buildings.
  - B. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways.
  - C. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
  - D. Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.
  - E. Refuse and waste removal areas, service yards, storage yards, loading areas, and exterior work areas shall be oriented to the rear of the building away from public right-of-way or properly and permanently screened from view from public ways using materials and berming as stated in criteria for equipment screening.
- 2. Relationship of Buildings and Site to Adjoining Area (Outside of subdivision or developments)
  - A. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
  - B. Attractive landscape transitions shall be designed to be compatible to adjoining properties.
  - C. Harmony in texture, lines, and masses is required. Monotony shall be avoided.
- 3. Landscape and Site Treatment  
Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures. Upon installation of required landscape materials, each owner shall take actions to ensure continued health and maintenance of such. Required landscaping that does not remain healthy shall be replaced consistent with these regulations.

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- A. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
- B. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- C. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade. Spectacular effects shall be reserved for special locations only.
- D. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
- E. Plant material shall be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used. See Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials.
  - (1) Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments. One tree at least every 40 feet shall be planted and maintained on the property along all street frontages. All projects shall use a minimum of the following listed plant varieties. See Corridor Overlay District Design Guideline Booklet for a listing of those plant materials.
    - a. A minimum of two species listed under the deciduous tree category.
    - b. A minimum of one species listed under the coniferous tree category.
    - c. A minimum of one species listed under the deciduous shrub category.
    - d. A minimum of one species listed under the coniferous shrub category.
- F. Parking areas and traffic ways shall be hard surfaced and striped and shall be enhanced with landscaped spaces containing trees or tree groupings and shrubs to provide shade, direction, and aesthetics. Plant material within the Highway 6 right-of-way shall meet the applicable standards of Nebraska Department of Roads.
- G. Screening of service yards and other places such as mechanical equipment, trash dumpsters, or other items that tend to be unsightly shall be accomplished by use of screen walls (brick, stone, ironwork, or some other accepted material finish), fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer months.
- H. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Such building lighting shall be downward facing and be similar in appearance and quality level as those in the Corridor Overlay District Design Guideline Booklet. Lighting standards and fixtures for pedestrian ways, parking areas, and drives within the commercial, industrial, and multi-family building area shall be similar in appearance and quality level as those in the Corridor Overlay District Design Guideline Booklet. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact and adversely affect adjoining properties, especially residential areas. Lighting in the sub-area shall be of historic appearance similar to those in the Corridor Overlay District Design Guideline Booklet. Lighting within the Highway 6 right-of-way shall meet the applicable requirements of Nebraska Department of Roads and shall be of aesthetic quality where possible.
- I. All residential fencing within this District shall not exceed six feet in height and perimeter fencing within the subdivision shall match in style and color. If multiple styles and colors exist prior to the adoption of these regulations, then any new fence shall be similar to that style and color used most.

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- J. Fencing used for screening within the District and/or as part of a commercial or industrial development shall be required to be a solid fence. Chain link fences, with or without slats, shall not be used to satisfy this screening requirement.
  - K. Whenever possible, all off street parking shall be to the rear of the building, and all such parking shall have a 6 feet wide planting buffer and berming, plantings, and/or screen wall at the public right of way or nearest lot line. Screen walls shall either be brick, stone, ornamental ironwork, or some other accepted material finish. All parking in the front of the building shall require berming and landscaping that screens the parking from public right-of-way.
4. Building Design
- A. Architectural design and style are not restricted; however architectural style shall be consistent throughout the development. See Corridor Overlay District Design Guideline Booklet for case studies (examples of developments or buildings considered meeting this concept). Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
  - B. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development. Buildings with multiple heights or section levels shall orient the shorter to the public right-of-way.
  - C. The primary building material of all portions of the structures shall be negotiated with the City; however, sample materials shall include, but not be limited to, preferred materials of high quality such as brick (clay), stucco, wood, glass, pre-cast concrete, split faced concrete masonry units (CMU) with integrated color pigmentation, and stone material native to Eastern Nebraska. The materials shall be similar and compatible throughout the entire development. Other primary building materials (of good architectural character, i.e., standard CMU, pre-engineered metal building panels) will be allowed provided that a minimum of 30 percent of the street side façade(s) is of a preferred material. Changes in use from industrial to another use shall require preferred materials improvements to the building. Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
  - D. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
  - E. Materials shall be of durable quality.
  - F. In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
  - G. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
  - H. Colors shall be harmonious and use only compatible accents.
  - I. Colors shall be of low reflectance, subtle, neutral, or earth tones and shall not be of high-intensity or metallic colors unless the colors are true to the materials beings used and are aesthetically pleasing. See Corridor Overlay District Design Guideline Booklet for examples of preferred colors.
  - J. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building such as plant material, walls, fences, and parapets, or they shall be so located as not to be visible from any public ways.

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- K. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design. Such building fixtures shall be down lighting and consistent with style of lighting used for parking and pedestrian ways. See Corridor Overlay District Design Guideline Booklet for examples of preferred fixtures and standards for the identified corridors/areas.
  - L. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance. Measures shall be taken to break up the flatness of all buildings and reduce the scale of large buildings using windows and architectural building design and techniques. No street-facing façade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
  - M. Building orientation shall be toward an arterial street unless it is demonstrated that this would not be feasible. All sides of a building facing public right-of-ways shall be designed as a building front. Drive-thru features should not face any arterial or collector streets/highways. The second floors of existing two story structures are encouraged to be converted to a residential use and/or office use.
  - N. Pitched or gabled roofs shall have a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Flat roofs on buildings shall have parapets. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.
  - O. Metal Buildings shall not be allowed to have visible exterior metal supports.
  - P. All openings in the façade of a building (windows, doorways, etc.) shall be proportioned to reflect pedestrian scale and designed in a manner that encourages interest at the street level. Window area on each façade shall be equal to at least 20% of the area of the façade. Main or primary entrances to buildings must be delineated through the use of architectural detailing appurtenant to the architectural style of the building. The main or primary entrances shall be oriented toward the front or side street setback.
  - Q. Windows shall not carry the appearance of vacancy or deterioration and shall utilize decorative features such as displays, curtains, and other materials to minimize an appearance of vacancy or deterioration. Windows shall maintain the architectural character of the structure of which they are a part.
  - R. Awnings or canopies shall be made of metal or cloth material.
  - S. Walkway coverings shall be of sheet metal, metal shingles, standing-seam construction, or canvas or cloth.
  - T. Planter boxes and screening walls, when used, shall be compatible with the primary structure.
  - U. Facades consisting of brick or masonry shall not be painted if they have not previously been painted unless previously approved prior to design review.
5. On-Site Automobile, Pedestrian, and Bicycle Circulation
- A. Intent  
Create a safe and efficient vehicular circulation system that avoids traffic congestion. Create a safe, continuous pedestrian and bicycle network that minimizes conflict with vehicular movement while promoting a convenient option for movement within and between developments.

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### B. Standards

- (1) All city vehicular and pedestrian circulation standards shall apply unless otherwise provided herein.
- (2) All multifamily and non-residential developments shall provide pedestrian and vehicular connections to each adjoining public street.
- (3) Primary circulation and access to and from multifamily and non-residential use areas shall be oriented toward predominately non-single-family residential streets.
- (4) All on-site sidewalks and pedestrian walkways shall be a minimum width of five feet unless part of a city trail system where such walks shall adhere to such standards.
- (5) All sidewalks and pedestrian walkways shall be aligned and connected with those on adjacent properties and public rights-of-way.
- (6) Except for single family dwellings, private full movement driveways giving access to development sites shall be aligned across public streets to contribute to circulation efficiency unless determined otherwise by the local government.
- (7) On-site sidewalk systems (or identified walkways) shall provide pedestrian connections that do not require walking across grass, landscaped areas, or the drive lanes of parking areas.
- (8) Each point at which the system of sidewalks or walkways must cross an internal street, drive, or parking lot shall be clearly marked through the use of change in paving materials, height, or distinctive colors.
- (9) The hardscape features described in this section, e.g., sidewalks, driveways, etc., shall seek to minimize imperviousness whenever possible and be designed to complement the LID (low impact development) stormwater management features on the site.
- (10) All parking requirements shall meet the minimum standards for the use of the property and parking, and related drive-thru uses shall be designed to promote efficient circulation.

### 6. On-Site Surface Parking

#### A. Intent

Parking areas shall be designed and located to minimize negative visual impacts particularly as viewed from Highway 6 and Amberly Road, frontage streets, and residential development.

#### B. Standards

- (1) All applicable local minimum off-street parking and loading requirements shall be met, and all off-street parking shall be hard surfaced and striped.
- (2) No more than 35 percent of a site's frontage along 1) Highway 6, 2) a Highway 6 frontage road, 3) Amberly Road, or 4) residential development shall be occupied by parking. If a property has dual or reverse frontage on both Highway 6 or Amberly Road and a frontage road, this standard shall apply to the frontage on Highway 6.
- (3) Garage entries, carports, and parking structures shall be internalized in building groupings or oriented away from street frontage to the maximum extent feasible.
- (4) The number of contiguous parking spaces shall be limited to 20, and each block of 20 shall be separated from each other by at least one of the following methods:
  - a. A landscaped island that separates the blocks and is at least nine feet wide;
  - b. A pedestrian walkway or sidewalk within a landscaped median that is at least nine feet wide;
  - c. A decorative fence or wall, a minimum of three feet in height, bordered by five feet of landscaping on at least one side;

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- d. An access drive or public street bordered by five feet of landscaping on at least one side; or
  - e. A building or buildings.
- (5) All of the required landscaped areas must contain a minimum of 75 percent living and irrigated landscaping material with a maximum of 25 percent nonliving landscaping material. Approved sidewalks are not counted toward the non-living landscape material percentage.
- (6) Parking lot design shall incorporate terminal islands at the end of parking row. Divider strips between parking rows shall be used to help disperse the required landscaping throughout the entire parking lot.
- (7) Large areas of parking (50 or more spaces) shall be distributed between the back or sides of a building with not more than 50 percent of the parking for the entire property remaining between the principal building and the primary abutting street.
- (8) The perimeter of all parking areas shall be buffered from adjacent streets, public rights-of-way, public open space, and adjacent uses by at least one of the following methods:
- a. A berm three feet high with a maximum slope of 3:1 in combination with evergreen and deciduous trees and shrubs;
  - b. A hedge at least three feet high, consisting of a double row of shrubs planted three feet on center along 75 percent of the perimeter length; or
  - c. A fence or wall at least three feet high in combination with landscaping.
- (9) All plant materials (see Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials) shall be installed in the following minimum sizes:
- a. Deciduous shade trees – 2 inch caliper
  - b. Ornamental trees – 2 inch caliper
  - c. Evergreen trees – 5 feet high
  - d. All shrubs – 5 gallon container
  - e. Groundcover, annuals, and perennials – 1 gallon container

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### IO Interstate Corridor Overlay District

**11.560 Intent:** The City of Waverly has established basic site and building development criteria to be implemented within the boundaries of this overlay district. The Interstate Corridor Overlay District has been established in order to implement the policies developed in the Comprehensive Development Plan and those recommended in the Nebraska Innovative Zone Commission Design Standards, August 2009. These criteria include but are not limited to the following: landscaping, building material selection, lighting, and road development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridor along Interstate 80. Guiding development in this manner promotes the general health, safety, and welfare of the residents within the zoning jurisdiction of the Waverly by providing quality design and construction which will also aid in the protection of past and future investment in the corridor. The regulations in the overlay district are in addition to those of the underlying zoning district for the property and affect all new or expanded public, commercial, industrial, multi-family residential, residential subdivisions (fencing), and mixed use buildings and properties. Where regulations are in direct conflict with other regulations in this ordinance, the stricter shall apply.

#### 1. PURPOSE:

The purpose of these adopted design standards is to promote quality design, preserve the natural features, preserve the appearance of the natural and agricultural landscape, and promote economic development along the I-80 corridor. The design standards will encourage design compatibility with the surrounding area, achieve greater architectural cohesiveness and compatibility where appropriate, and minimize the negative visual impacts of site development. These standards shall apply to the design and placement of landscaping, buffers, buildings, and exterior architectural features and finishes.

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Waverly and its extraterritorial jurisdiction. Pertinent to appearance is the design of the site, building and structures, planting, signs, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation, or variety but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within Waverly's jurisdiction, preserve taxable values, and promote the public health, safety, and welfare.

#### 2. GEOGRAPHIC AREA:

The IO Interstate Corridor Overlay District shall apply to those areas lying approximately within one quarter mile (1/4 mile) to one half mile (1/2 mile) of either side of the right of way of Interstate 80. In the event the standards of this overlay district are in conflict with those of the underlying zoning district, the standards of the overlay district shall apply. If a site or property is partially covered by said overlay district, then the entire portion of the site or property facing the Corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

### **11.561 Permitted Uses:**

The following principal uses are permitted in the IO District.

1. All permitted uses contained in the underlying base zoning district unless specifically noted in these regulations.

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### 11.562 Conditional Uses:

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the IO Overlay District as recommended by the Planning Commission and City Council and approved by the City Council.

1. All conditional uses contained in the underlying base zoning district unless specifically noted in these regulations.

### 11.563 Criteria for Application:

All commercial, industrial, and multi-family building projects within the required geographic region shall comply with the Interstate Corridor Overlay District regulations and Corridor Overlay District Design Guideline Booklet. The Developer shall place maintenance provisions required by this section within all restrictive covenants. The application and review procedure for a site plan review shall be as follows:

1. Pre-application Conference
  - A. The applicant shall schedule and attend a pre-application conference with the city planner or representative of the Waverly Planning Department no more than 60 days prior to submitting a site plan application. Site plan information shall be submitted to the planning department at least 14 business days prior to the pre-application conference in a form identified by the planning department.
  - B. The purpose of the pre-application conference shall be for the applicant to review the site plan with the planning department and other departments, as appropriate, and to identify any initial conflicts between the site plan and these standards.
2. Site Plan Application
  - A. The applicant shall submit an application in accordance with the city.
  - B. The application shall be made within 60 days of the pre-application conference.
3. Design Review Board
  - A. The application shall be sent to the applicable Waverly Design Review Board/Architect or I-80 Corridor Design Review Board for review and recommendation prior to either a planning department or planning commission consideration of the application.
4. Planning Department Review and Decision on the Site Plan
  - A. For site plan applications that are considered by the planning department, the planning department shall review the application and make a decision to approve, approve with conditions, or disapprove the site plan application in accordance with these standards and state law.
  - B. For site plan applications considered by the planning commission, the planning department shall review the site plan application and prepare a recommendation for the planning commission. The planning commission shall hold a public meeting to review the application and make a decision to approve, approve with conditions, or disapprove the site plan application in accordance with this ordinance and state law.
5. Approval Criteria

Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

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- A. That the proposed development is consistent with all the requirements of these standards and other related codes and ordinances enforced by the city;
  - B. That the proposed development is in compliance with the applicable base district and overlay districts; and
  - C. That the proposed development meets all the requirements or conditions of any applicable development approvals (e.g., rezoning or conditional use permit approval).
6. Time Limit
- A. Unless otherwise specified in the site plan approval, an application for a building permit shall be applied for and approved within one year of the date of the site plan approval or the site plan shall become invalid. Permitted timeframes do not change with successive owners.
  - B. Upon written request, one extension of one year may be granted by the planning department if the applicant can show good cause.
7. Amendments of an Approved Site Plan
- A. If an applicant desires to amend an approved site plan, then the amendment may be made without the approval of the planning department with the exception of those changes stated in paragraph (B) below. However, if a proposed change will, in the opinion of the planning department, substantially affect the terms of the original approval or would result in significant adverse impacts on the surrounding properties or the community at-large, a re-submittal to the planning department or the planning commission (as appropriate) shall be required pursuant to the provisions of this ordinance.
  - B. A change to an approved site plan shall require a re-submittal to the decision-making body responsible for the original approval, if
    - (1) The density of the development is to be increased;
    - (2) The gross square footage of nonresidential (and multi-family residential) buildings is to be increased or the number of stories is to be reduced or increased;
    - (3) Required landscaping materials are to be deleted;
    - (4) Required open space is to be deleted;
    - (5) There is any change in plans for historic structures or sites; and/or
    - (6) Drainage, streets, or other engineering design changes will materially alter items approved in the rezoning or subdivision approval.

Identify categories of changes that should subject the site plan to re-review and approval, such as stormwater issues.
8. Certificate of Occupancy and Maintenance
- A. Certificate of Occupancy Permit: After the zoning/building permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.
  - B. The property owner is required to maintain the design requirements of the project. In addition to the remedies of Section 11.1214, neglect in maintaining the structure's appearance, landscaping, lighting and other design requirements may result in the revocation of the Occupancy Permit.
9. Structures Required for Review
- A. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.

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B. All developments consisting of more than one principal building, mixed-uses, multiple-pad development, and/or similar developments shall comply.

C. Rehabilitation

The model design standards shall apply to existing, conforming development within the corridor when changes (renovation, restoration, modification, addition, or retrofit; collectively referred to as rehabilitation) are proposed to a structure or a site that will meet or exceed the standard of 20 percent of the existing size or 50 percent of the current appraised value of the structure or site as established by the county, whichever is less. Rehabilitation costs or measurements shall be aggregated over a five year period to determine whether the rehabilitation is subject to the design standards.

Rehabilitation projects shall conform to the model design standards to the greatest extent possible. Where conformance is not possible, for all or any part of a standard, the applicant shall provide written explanation for each area of non-compliance.

D. Exceptions

The standards shall not apply to construction of individual homes on existing lots or agricultural use and operations but shall apply to new residential subdivisions that consist of more than one lot for perimeter fencing standards.

### 11.564 Criteria for Appearance:

1. General Design Standards

The goal and purpose of these design standards is to create a sense of place within the community. Here, the design standards are intended to establish the baseline requirements for design that reflects the desired regional character while allowing flexibility for individual project design that works with the jurisdiction of Waverly.

The following standards are applicable to all development types.

A. Protection of Natural Features, Resources, and Sensitive Areas

(1) Intent

Protect significant natural features, resources, and sensitive areas in order to minimize the impacts of development on the environment and create more distinctive site development. Where appropriate, natural features, resources, and sensitive areas may be used as amenities to enhance the value of development.

(2) Standards

Development shall be organized and designed to protect, appropriately use, or enhance the following types of natural resources and features. This shall be accomplished by restricting development in these areas and then including such features in common landscaped areas or dedicated open space by allowing construction in these areas sensitive to the protection of these features or by mitigating impacts. If possible, these features shall be connected or integrated with similar features on adjacent lands. The following features shall be given consideration in this category:

- Water features (in addition to floodplains, which are dedicated);
- Parks and public open space areas on or adjacent to the site;
- Historic or archeological sites or areas that have been recognized by the local governing body as significant;
- Significant views from the I-80 roadway;

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- Riparian wildlife habitat as identified by the Nebraska Game and Parks Department;
  - Other natural features such as bluffs, ridges, steep slopes, stands of mature trees, rock outcroppings, or wetlands; and
  - Noise corridors/envelopes.
- a. Development shall be prohibited from locating within the 100-year floodplain boundary as defined by the Federal Emergency Management Agency.
  - b. Development shall be set back a minimum of 100 feet from the edge of a wetland or natural area as defined by the City of Waverly. Where an existing setback is in place, the larger of the two shall apply.

### B. Open Areas and Amenities

#### (1) Intent

Developments shall dedicate and develop open space, trails, and amenities in accordance with the Waverly Comprehensive Plan and the adopted subdivision regulations. "Open areas" means unoccupied space on the same lot with the building subject to the open area requirement and shall consist of private open space, open recreational facilities, and areas used exclusively for pedestrian and non-motorized traffic. Parking lots, recreational vehicle and equipment storage areas, public and private roadways, and structures shall not be considered "open areas" with the exception of residential development clubhouses/recreation facilities.

#### (2) Standards

To the maximum extent practicable, and in accordance with any applicable subdivision regulations, open areas shall be organized so as to include or protect as many of the natural resources and features identified in the previous section as possible.

- a. Open areas shall be organized so as to create integrated systems of open areas that connect with the following types of lands located within or adjacent to the development plan or plat:
  - (i) Dedicated park lands;
  - (ii) Dedicated school sites;
  - (iii) Dedicated open spaces;
  - (v) Any local or regional trail or open space system; and
  - (vi) Activity or community centers.
- b. Each open area shall be adjacent to or visible from at least one dedicated public street or public site of the development. The majority of open areas shall not be located in isolated corners of the development, in peripheral strips along the borders of the development, or in unconnected patterns unless such a location is necessary to achieve one of the connections or visibility requirements.
- c. Stormwater management systems shall be located, designed, and managed to serve as visual amenities, entryways features, or opportunities for passive recreation whenever possible.

## SPECIAL AND OVERLAY DISTRICTS

- d. The following stormwater management techniques, when designed pursuant to generally recognized standards and specifications and when long-term maintenance is provided, shall be included as open space and shall qualify for a reduction in required landscaping up to 10 percent of the total:
  - (i) Bioretention facilities,
  - (ii) Rain gardens,
  - (iii) Infiltration swales and trenches, or
  - (iv) Any alternative method identified by the jurisdiction.
  
- e. On sites with existing mature trees, at least twenty percent of significant trees shall be preserved or transplanted on the site. For the purposes of this section, "significant" trees include the following:
  - (i) Deciduous trees with 12 inch minimum caliper;
  - (ii) Evergreen trees 12 feet or more in height; or
  - (iii) Groups or stands of 10 or more trees with a minimum caliper of six inches.

### Significant Tree Replacement

- (iv) Where significant trees cannot feasibly be preserved, the total caliper inches of the tree(s) that are removed shall be replaced by the same caliper inches of new trees. The new trees shall either be of the same or similar species, or if identified by the Planning Department for species diversification, shall be from a list of permissible species approved by the city.
- (v) If site limitations affect the ability of the applicant to replace the total caliper inches of the removed tree(s), the city may allow the applicant to reduce the replacement measurement in an amount that allows for the maximum replacement of caliper inches feasible on the site. This reduction shall not exceed 50 percent of the total caliper inches removed. Where this reduction is applied, the applicant shall make a contribution to the community's Tree Fund for the remaining caliper inches not replaced. The amount of the in lieu fee shall be calculated as the cost to replace the remaining total caliper inches not planted with new trees of the same or similar species purchased wholesale at two inch caliper.
- (vi) The Tree Fund shall be used to replace or provide new trees within the jurisdiction of Waverly.

### C. On-Site Automobile, Pedestrian, and Bicycle Circulation

#### (1) Intent

Create an efficient vehicular circulation system that avoids the creation of large, isolated tracts without routes for through traffic. Create a safe, continuous pedestrian and bicycle network that minimizes conflict with vehicular movement while promoting a convenient option for movement within and between developments.

#### (2) Standards

- a. All city vehicular and pedestrian circulation standards shall apply unless otherwise provided herein.
- b. All multifamily and non-residential developments shall provide pedestrian and vehicular connections to each adjoining public street.

## SPECIAL AND OVERLAY DISTRICTS

- c. Primary circulation and access to and from multifamily and non-residential use areas shall be oriented toward predominately non-single-family residential streets.
- d. All on-site sidewalks and pedestrian walkways shall be a minimum width of five feet. All trails and sidewalks designated as part of a trail system shall be a minimum of ten feet in width.
- e. All sidewalks and pedestrian walkways shall be aligned and connected with those on adjacent properties and public rights-of-way.
- f. Except for single family dwellings, private full movement driveways giving access to development sites shall be aligned across public streets to contribute to circulation efficiency unless determined otherwise by the local government.
- g. On-site sidewalk systems (or identified walkways) shall provide pedestrian connections that do not require walking across grass, landscaped areas, or the drive lanes of parking areas.
- h. Each point at which the system of sidewalks or walkways must cross an internal street, drive, or parking lot shall be clearly marked through the use of change in paving materials, height, or distinctive colors.
- i. The hardscape features described in this section, e.g., sidewalks, driveways, etc., shall seek to minimize imperviousness whenever possible and be designed to complement the LID (low impact development) stormwater management features on the site.
- j. All parking requirements shall meet the minimum standards for the use of the property and parking, and related drive-thru uses shall be designed to promote efficient circulation.

### D. On-Site Surface Parking

#### (1) Intent

Parking areas shall be designed and located to minimize negative visual impacts, particularly as viewed from I-80, frontage streets, and residential development.

#### (2) Standards

- a. All applicable local minimum off-street parking and loading requirements shall be met, and all off-street parking shall be hard surfaced and striped.
- b. No more than 50 percent of a site's frontage along 1) I-80, 2) an I-80 frontage road, or 3) residential development shall be occupied by parking. If a property has dual or reverse frontage on both I-80 and a frontage road, this standard shall apply to the frontage on I-80.
- c. Garage entries, carports, and parking structures shall be internalized in building groupings or oriented away from street frontage to the maximum extent feasible.
- d. The number of contiguous parking spaces shall be limited to 20, and each block of 20 shall be separated from each other by at least one of the following methods:
  - (i) A landscaped island that separates the blocks and is at least nine feet wide;
  - (ii) A pedestrian walkway or sidewalk within a landscaped median being at least nine feet wide;
  - (iii) A decorative fence or wall, a minimum of three feet in height, bordered by five feet of landscaping on at least one side;
  - (iv) An access drive or public street bordered by five feet of landscaping on at least one side; or
  - (v) A building or buildings.

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- e. All of the required landscaped areas must contain a minimum of 75 percent living and irrigated landscaping material with a maximum of 25 percent nonliving landscaping material. Approved sidewalks are not counted toward the non-living landscape material percentage.
- f. Parking lot design shall incorporate terminal islands at the end of parking row. Divider strips between parking rows shall be used to help disperse the required landscaping throughout the entire parking lot.
- g. Large areas of parking (50 or more spaces) shall be distributed between the back or sides of a building with not more than 50 percent of the parking for the entire property remaining between the principal building and the primary abutting street.
- h. The perimeter of all parking areas shall be buffered from adjacent streets, public rights-of-way, public open space, and adjacent uses by at least one of the following methods:
  - (i) A berm three feet high with a maximum slope of 3:1 in combination with evergreen and deciduous trees and shrubs;
  - (ii) A hedge at least three feet high consisting of a double row of shrubs planted three feet on center along 75 percent of the perimeter length; or
  - (iii) A fence or wall at least three feet high in combination with landscaping.
- i. All plant materials (see Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials) shall be installed in the following minimum sizes:
  - (i) Deciduous shade trees – 2 inch caliper
  - (ii) Ornamental trees – 2 inch caliper
  - (iii) Evergreen trees – 5 feet high
  - (iv) All shrubs – 5 gallon container
  - (v) Groundcover, annuals, and perennials – 1 gallon container

### E. Landscaping and Buffers

#### (1) Intent

Create an attractive environment along the edges of each development parcel, open space, and pedestrian area, and use landscaping to break-up the apparent size and monotony of parking areas. These provisions are not applicable to single-family residential development.

#### (2) Standards

##### a. Interstate Buffer

- (i) Developments with a site perimeter directly adjacent to the corridor shall provide a landscaped buffer of at least 50 feet wide between the building or parking lot edge and the right-of-way or frontage road. Buffers shall consist of informal clusters of deciduous and evergreen trees and shrubs planted in an offset pattern and shall include a minimum of one tree and 10 shrubs per 25 lineal feet of frontage. See Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials. Uses inside the buffer may include

- Permitted entrances;

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- Underground utilities;
  - Pedestrian and bike trails;
  - Stormwater management facilities; and
  - Frontage roads with a minimum buffer of 40 feet.
- (ii) For lots that exist prior to the adoption of these regulations, the following buffer exceptions shall be applied:
- If the minimum buffer width exceeds 25 percent of the lot length, the buffer width shall be reduced by half; however, in no case shall the buffer width go below 20 feet.
  - Where a lot is previously developed and a primary structure encroaches into the minimum buffer area, the building line of the existing structure shall be used as the setback line for future development provided it meets the minimum setback for the zone district.
- b. Minimum Landscaping
- A minimum of 20 percent of a site's total square footage (not including any Interstate Buffer) shall be reserved for landscaping consisting of a variety of trees, turf grasses, shrubs, annual and perennial flower species, mulches, or ground covers.
- c. Setback Buffer
- Building setback areas along all arterial, collector, or local streets as well as private streets and internal drives shall be landscaped with a minimum of one tree for every 40 lineal feet of frontage.
- d. Plant Materials
- (i) A preferred list of plant materials is identified in the Corridor Overlay District Design Guideline Booklet. Additional recommended plant material is provided by the Nebraska State Arboretum and is included as an appendix to the I-80 Design Guidelines developed by the Nebraska Innovative Zone Commission.
- (ii) Trees shall have an average spread of crown of greater than 15 feet at maturity. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet crown of spread.
- (iii) Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be three feet high within one year after time of planting.
- (iv) Upon installation of required landscape materials, each owner shall take actions to ensure continued health and maintenance of such. Required landscaping that does not remain healthy shall be replaced consistent with these regulations.
- e. Deer Fence
- Any deer fence constructed by the Nebraska Department of Roads is exempt from these design standards.

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- f. To the maximum extent possible, site landscaping shall include native landscape elements.
- g. To the maximum extent possible, each landscaped area shall promote 'water smart' landscaping through plant material and design.
- h. If native landscape elements are used, these plant materials shall not be permitted to overhang, extend, or encroach onto any private properties or public sidewalks, streets, or alleys that are adjacent to the lot, tract, or parcel on which they are planted.
- i. If native landscape elements are used, these plant materials shall not obstruct, obscure, block, or impede regulatory, warning, or street identification signs or street lighting required to ensure the safe mobility of vehicles and pedestrians on streets, trails, and sidewalks.
- j. If native landscape elements are used, these plant materials must be cut at least once annually between April 15<sup>th</sup> and July 15<sup>th</sup> to a height no greater than ten (10) inches.

### F. Development Pattern/Site Layout

#### (1) Intent

Identify standards required to create a pedestrian-oriented scale and appearance within development centers.

#### (2) Standards

- a. To the maximum extent possible, development on larger sites containing multiple buildings shall be composed of a series of "blocks" of development defined by streets and driveways that provide links to adjacent streets along the perimeter of the site.
- b. New buildings located along a street frontage shall, to the maximum extent feasible, align building walls with existing adjacent buildings and buildings across the street to help create a consistent building edge.
- c. New buildings shall be oriented so that loading bays, docks, and service areas are not visible from the corridor or otherwise screened from view of such corridor with landscape and/or earthen berms or other building materials.
- d. Unless part of a larger planned development or commercial center,
  - (i) When there is one building with a single tenant, the building's "active" wall shall be oriented toward the primary abutting street; or
  - (ii) When there is one building with multiple tenants, at least 50 percent of the building's "active" wall shall be oriented toward the primary abutting street.
- e. Where there is more than one building in a development, all principal and pad site buildings shall be arranged and grouped so that their primary orientation complements adjacent, existing development and one of the following:
  - (i) Frames the corner of an adjacent street intersection;
  - (ii) Frames and encloses a main street pedestrian and/or vehicle access corridor within the development site; or
  - (iii) Frames and encloses on at least three sides parking areas, public spaces, or other site amenities.

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- f. To the maximum extent feasible, building layout shall follow and respect the natural topography of the site. Berms, channels, swales, and similar man-made change to the landscape shall be designed and graded to be an integral part of the natural landscape and provide a smooth transition in changes in slope.

### G. Building Design

#### (1) Intent

Provide a high quality architectural character in all commercial, industrial, and multi-family residential developments.

#### (2) Standards

##### a. Building Orientation

Buildings on lots that front the corridor should be oriented to present a front or side view to the highway/interstate corridor. Architectural or landscape features are also encouraged to be located facing the corridor.

##### b. Four-Sided Design

These standards shall apply to the primary façade of a building, and all sides of the building where visible from public rights-of way, private roads, service drives, adjacent residential properties, and park/recreation areas shall include design characteristics and material consistent with those of the primary façade except as provided. Additional building screening shall be required where certain façade requirements are waived by the city.

##### c. Building Form

The design of all buildings shall avoid incorporating monotonous, unbroken, flat walls through the use of textured surfaces, projections, recesses, shadow lines, color, window patterns, overhangs, reveals, changes in parapet heights, and similar architectural devices. Buildings having single walls exceeding 50 feet in length shall incorporate two or more of the following at 50 foot intervals:

- (i) Changes in color, graphical patterning, changes in texture, or changes in material(s);
- (ii) Projections, recesses, and reveals with a minimum change in plane of 24 inches;
- (iii) Windows and fenestration;
- (iv) Arcades and pergolas;
- (v) Towers;
- (vi) Gable projections;
- (vii) Horizontal/vertical breaks; or
- (viii) Other similar techniques.

##### d. Franchise Architecture

Franchise architecture is discouraged in favor of architecturally compatible designs. National "standard," prototype, or trademark designs shall be adapted to be compatible with these standards.

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- e. Building Materials and Colors
- (i) Intense, bright, or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors but shall not constitute more than 10 percent of the area of each elevation of the building. See Corridor Overlay District Design Guideline Booklet for examples of preferred colors. Permitted sign areas shall be excluded from this calculation.
  - (ii) Highly reflective or glare producing glass with a reflectance factor of .25 or higher is prohibited on all façades. Such prohibition shall apply whether the glass is used in windows or spandrels areas.
  - (iii) All building façades visible from the corridor shall be finished with the same mix of materials and colors and the same degree of fenestration and articulation used on the major entry walls that are the front of the building.
- f. Roofs
- (i) Roof types shall be related to the building's function and character. Gabled and pitched roofs are more appropriate for one and two-story construction, while more massive buildings are best suited for hipped roofs or flat roofs placed behind a parapet wall.
  - (ii) Sustainable roofs are encouraged. Buildings with sustainable roofs shall be granted reduced parking lot landscaping or stormwater management requirements or waived on-site parking requirements provided overall required screening and buffering is provided. Sustainable roofs include
    - Cool roofs that for a minimum of 75 percent of the total roof surface have a Solar Reflectance Index (SRI) of 78 or higher for a roof with a slope of 2:12 or less, or 29 or higher for a roof with a slope greater than 2:12; or
    - A vegetated roof consisting of a minimum of 50 percent of the total roof surface.
- g. Screening and Fencing
- (i) Rooftop Equipment and Screening. All rooftop mechanical equipment and vents greater than eight inches in diameter shall be screened. Screening may be done either with an extended parapet wall or a free-standing screen wall. Screens shall be at least as high as the equipment they hide and shall be of a color material matching or compatible with the dominant colors and materials found on the façades of the primary building.
  - (ii) Service Area and Loading Dock Screening. Loading docks, on-site storage yards, and all other service areas shall be oriented away from the corridor, where possible, and shall be fully screened from view from all public and private rights-of-way by berms, walls, fences, and/or opaque landscaping. Screens shall be of a color material matching or compatible with the dominant colors and materials found on the façades of the primary building. The screen height shall be of sufficient height to hide the equipment, vehicles, materials, or trash being screened from public view, but in no case shall the screen exceed 10 feet. All fencing used for screening within this district and/or as part of a commercial or industrial development shall be required to be a solid fence. Chain link fences, with or without slats, shall not be used to satisfy this screening requirement.

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(iii) All residential fencing within this District shall not exceed six feet in height and perimeter privacy fencing within the subdivision fronting the Interstate and any street that does not qualify as "Local" under the Subdivision Regulations shall match in style, color, and height. Such fencing shall be a solid fence and chain link fences, with or without slats, shall not be used to satisfy this requirement. If multiple styles and colors exist prior to the adoption of these regulations, then any new fence shall be similar to that style and color used most. *(Amended by Ord. 16-14; 10-11-16)*

### h. Lighting

Lighting standards and fixtures for the buildings, pedestrian ways, parking areas and drives within the commercial, industrial, and multi-family building areas shall be similar in appearance and quality level as those in the Corridor Overlay District Design Guideline Booklet.

## H. Towers, Alternative Energy, Signs

### (1) Cell Towers

Within the corridor, the use of stealth cell towers with regionally appropriate design is strongly recommended.

### (2) Solar Energy

#### a. Purpose

This section is intended to promote the compatible use of solar energy systems and to assist in decreasing Waverly's dependence upon non-renewable energy systems through the encouragement of solar energy systems for the heating of buildings and water.

#### b. Standards

Solar energy systems shall be a permitted use. Private restrictions on solar energy systems, such as homeowners association covenants or restrictions, are not permitted.

#### c. Height

In solar retrofit installations, solar energy collectors, storage tanks and equipment, roof ponds, or other solar equipment appurtenant to a solar energy system may exceed by three feet the local maximum height limits. Systems taller than three feet above any maximum height shall be subject to local approval.

#### d. Setbacks

In solar retrofit installations, solar energy collectors, storage tanks and equipment, roof ponds, or other solar equipment appurtenant to a solar energy system may extend into the required setbacks a maximum of three feet. Systems extending more than three feet into any required setback shall be subject to local approval.

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### e. Conflict with Other Municipal Policies and Ordinances

Nothing in this subsection does, or is intended to, abrogate the owner's responsibility to meet all other requirements of the city's land use regulations, including, but not limited to, the preservation of private and public views, the quality of architectural design, and the preservation of historic landmark structures.

### (3) Small Wind Energy Systems

#### a. Purpose

This section is intended to promote the compatible use of small wind energy systems. Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed wind energy structures also enhance the reliability and power quality of the power grid, reduce peak power demands, and increase local electricity generation.

#### b. Standards

Small wind energy systems shall be limited to one (1) tower and shall be permitted on lots of at least 20,000 square feet that are not adjacent to residential uses. They are subject to the following requirements:

##### (i) Setbacks

A wind tower for a small wind system shall be set back a distance of 1.0 times its total height from

- Any public road right-of-way unless written permission is granted by the governmental entity with jurisdiction over the road;
- Any overhead utility lines unless written permission is granted by the affected utility; and
- All property lines unless written permission is granted from the affected land owner or neighbor. Written permission must be recorded in the property chain of title and will run with the land.
- No part of the system, including guy wire anchors, shall be closer than five feet from any property boundary.

##### (ii) Access

- All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
- The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

##### (iii) Lighting

A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration. A light temporarily used to inspect a turbine, tower, and associated equipment is permissible providing said light is only used for inspection purposes and not left on for an extended period of time.

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### (iv) Decibel Levels

Decibel levels for the system shall not exceed those provided in Section 11.609 of these regulations. Unless provided for, no system shall exceed 55 decibels (Dba) at the boundary of a residential district.

### (v) Signs

All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road, shall be prohibited.

### (vi) Code Compliance

A wind energy structure, including the tower, shall comply with all applicable state construction and electrical codes, and the National Electrical Code as adopted by the city council.

### (vii) Height

- The maximum height of a wind energy system shall comply with the underlying zoning district.
- The structure shall comply with all applicable Federal Aviation Administration requirements including but not limited to Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations in excess of 200 feet in height and installations close to airports. The system shall also comply with any and all Nebraska aeronautics regulations.

### (viii) Met and New Technology

- Temporary meteorological (Met) towers shall be permitted under the same standards as a small wind energy system, except that the requirements shall be the same as those for a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three years after which an extension may be granted. Permanent Met towers may be permitted under the same standards as a small wind energy system.

## (4) Commercial Wind Energy Systems

Commercial wind energy systems shall be discouraged from locating within the corridor.

## (5) Signs

Local sign regulations and *NAC Title 410, Chapter 3—Sign Permits: NDOR Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Highway Beautification Control System* shall apply in the corridor, except as modified in this section:

- a. The combined area of all wall signs attached to any façade of a building shall not exceed twenty five percent of the façade area of the building (including doors and windows).
- b. Roof signs are not permitted, and wall signs shall not extend beyond the top edge of any façade of the building.

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- c. Projecting signs shall not project over public property more than 1/3 the distance from the building to the curb and not project into a public alley or public parking lot. A sign shall not project over the street line. Projecting signs shall fit within the architectural features of the building and be a minimum of eight feet above the ground.
- d. Projecting signs shall not exceed 15 square feet per building face.
- e. Window signs shall consist of lettering applied to the interior of display windows.
- f. Window signs shall not fill up more than 20 percent of the window area and shall be limited to letters of 8 inches or less in height.
- g. Billboards shall be limited to a minimum setback of 660 feet, and all other regulations of the underlying zoning district shall apply.
- h. Pole signs shall be limited to on premise only, and all other regulations of the underlying zoning district shall apply.
- i. All freestanding signs shall be monument signs (i.e., the lower edge of the sign is attached to a foundation with no visible air space in between the lower edge of the sign face and the foundation) constructed of materials that are similar to or are compatible in quality and appearance with the primary materials used on primary buildings on the site. The addition of skirting between the lower edge of the sign face and the foundation of a pole sign, in order to avoid visible air space between the two, is prohibited.
- j. The maximum height of a monument sign shall be 12 feet above grade along the I-80 corridor and eight feet above grade for internal streets, and the maximum sign face of a monument sign shall be 24 square feet or comply with the regulations of the underlying zoning district of which the stricter of the two shall apply. If the monument sign is oriented approximately perpendicular to the street frontage, or if it is located diagonally on a corner lot in order to be seen from two streets, it may contain a sign face of up to 24 square feet on each of its two sign faces. Maximum sign areas shall apply to each lot or parcel and not per street frontage or per user.

### 2. Multi-family Residential development

#### A. Intent

These standards focus on creating a cohesive development pattern for multi-family development that reflects local design themes and provides an inviting living area for residents.

#### B. Standards

##### (1) Preferred Location

Multi-family development shall be located within or adjacent to commercial activity centers where a wide range of services exist or are planned for the future.

- a. Multi-family development shall be generally located and set back from the corridor and local interchanges by at least one-quarter mile (1,320 feet).

## SPECIAL AND OVERLAY DISTRICTS

- b. Multi-family development shall be buffered and screened from the corridor with landscape or fencing materials.
    - (i) Landscape materials shall comply with those prescribed herein.
    - (ii.) Fencing shall be of uniform design and materials for each subdivision adjacent to the corridor.
- (2) Open Area Standards
- a. A minimum of 30 percent of the gross development area within a subdivision plat or site plan shall be designated as open areas. The open areas shall be located to
    - (i) Protect the types of areas identified herein (Protection of Natural Features, Resources, and Sensitive Areas);
    - (ii) Comply with local landscaping regulations; and
    - (iii) Create courtyards or other internal configurations whenever possible.
  - b. All groupings of 50 or more multi-family units shall have access to at least one the following amenities, and all groupings of 100 or more multi-family units shall have access to at least two of the following amenities:
    - (i) A recreational facility, such as a tennis court, picnic area, or volleyball court.
    - (ii) A swimming pool.
    - (iii) A plaza area with benches focused on a water feature or work of art.
    - (iv) Residential clubhouse space.
    - (v) Playground/play area
- (3) Parking Design
- a. Where allowed, parallel parking spaces on public and private streets within multi-family development may be used to meet the requirements for guest parking.
  - b. To minimize exterior surface parking, at least 40 percent of residential parking shall be in garages.
  - c. Where detached garages are used, they shall be faced with the same mix and percentage of materials as the primary structure.
- (4) Building Design
- a. Massing and Articulation
    - (i) All multi-family buildings shall be designed to provide complex massing configurations with a variety of different wall planes and roof planes. Large multi-family structures shall provide changes in wall and roof planes in 50 foot intervals.
    - (ii) Buildings shall be horizontally articulated at every two floors through the use of decorative banding, a change in siding material and/or color, or sloping roof planes.
    - (iii) The façades of single-family attached townhouses or row houses shall be articulated and provided with different façades to differentiate individual units.

## SPECIAL AND OVERLAY DISTRICTS

### b. Building Length

- (i) The maximum length of any multi-family residential building shall not exceed 200 feet.
- (ii) No more than 8 single-family attached townhouses or row houses shall be attached in a single row or building cluster.

### c. Four-Sided Design

All sides of a building open to view by the public, whether from public or private property, shall display a similar level of quality and architectural interest.

### d. Windows

- (i) All elevations on multi-family buildings shall contain windows.
- (ii) Windows shall be of a similar size, shape, and architectural character to those traditionally found in the neighborhood or community.

### e. Additional Standards

- (i) Multifamily structures taller than two stories shall provide a gradual height transition by “stepping-down” to meet the approximate height of adjacent single-family homes or other structures of a lesser height.
- (ii) Exposed concrete foundations shall not be permitted where visible from the street.
- (iii) Roof forms and treatments shall be similar to those found on similar structures in the neighborhood or community.

## 3. Commercial and Mixed Use Development

### A. Intent

These standards focus on the development of commercial and mixed-use development at a scale that meets local needs with design elements that are geared to a human scale with a site balance between pedestrian and vehicle preferences.

### B. Standards

#### (1) Preferred Location

Commercial and Mixed-Use development shall be concentrated within activity centers at an interchange. These uses shall not be developed in a linear strip along frontage roads.

#### (2) Building Design

##### a. Exterior Building Materials

- (i) Permitted exterior building materials shall be high quality, durable materials that include, but are not limited to, brick; native or manufactured stone (Renaissance stone or similar masonry materials); integrally colored, burnished, textured, or glazed concrete masonry units quality metals such as copper; high quality pre-stressed concrete systems; tilt-up concrete panels with an architectural finish; and drainable (water managed) EIFS.
- (ii) The following exterior materials are prohibited: split shakes, rough-sawn wood; painted concrete block; tilt-up concrete panels without an architectural finish; field-painted or pre-finished standard corrugated metal siding; standard single- or double-tee concrete systems; or barrier type EIFS.

## SPECIAL AND OVERLAY DISTRICTS

Any of these materials may be used as accent materials provided they do not exceed 10 percent of the associated façade.

- (iii) Materials on all sides of the building shall be consistent with materials and colors of the front façade when visible from public streets and trails and adjacent residential areas. See Corridor Overlay District Design Guideline Booklet for examples of preferred colors.

### b. Pedestrian Scale Details

To promote a sense of human scale, special accent materials and design details shall be incorporated into all first floor façades and paving areas abutting pedestrian walkways. Such features shall include, but are not limited to, the following:

- (i) Changes in paving patterns and materials at pedestrian building entrances and other significant pedestrian locations;
- (ii) Special decorative wall patterns, textures, accent materials, or graphics;
- (iii.) Reveals;
- (iv.) Special architectural features marking pedestrian entries; and
- (v.) Display windows (Darkly tinted and mirrored windows are prohibited as ground floor windows or doorways).

In addition, the following shall apply:

- (vi.) All pedestrian circulation design and building access shall be ADA compliant.
- (vii.) The development and layout of internal street systems shall promote pedestrian linkage, accessibility, and interconnectivity among commercial uses within a development.
- (viii.) All pedestrian walkways shall be designed to maximize access to commercial entryways, places of social interaction, parks, and parking areas.

### c. Common Architectural Theme

All use, buildings, and areas in a commercial or mixed-use development shall share common architectural and landscaping themes, materials, and styles. Each commercial or mixed-use development shall create its own identity with unique design themes based on a palette of compatible rooftops, materials, and colors. Both pads and anchor stores shall incorporate all such thematic design, materials, landscaping, roof types, and colors.

- (i) Highly visible commercial entryways are required to incorporate canopies, awnings, outdoor patios, arcades, display windows, and/or overhangs.
- (ii) All new commercial buildings shall be constructed with a base, middle, and top. Each component shall be articulated through horizontal and/or vertical articulation which may consist of changes in the wall plane, use of openings and projections, material changes, and/or color variations.

### d. Building Height

Structures shall not exceed the height requirement of the underlying zoning district. Where there is no height requirement, all commercial units shall maintain existing scale of surrounding structures

## SPECIAL AND OVERLAY DISTRICTS

### e. Building Orientation

The main or front façade of all commercial units shall orient to a public street/road.

### (3) Big Box Retail Standards

#### a. Applicability

These standards are applicable to all single-story retail buildings containing 65,000 square feet or more of gross floor area.

#### b. Façade Articulation

Each façade greater than 50 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least two feet and extending at least 20 percent of the length of the building.

#### c. Façade Design

Each building façade shall have a repeating pattern that includes no fewer than three instances of

- (i) Color change;
- (ii) Texture change;
- (iii) Material change; or
- (iv) Expression of an architectural or structural bay through a change in plane no less than 12 inches in width.

At least one of those elements shall repeat horizontally at an interval of no more than 30 feet.

#### d. Concealing Equipment

Each building shall have either (i) overhanging eaves extending at least three feet past supporting walls, or (ii) parapets to conceal rooftop equipment from public view. If parapets are incorporated, they shall have an average height of no more than 15 percent of the supporting wall, a maximum height at any point equal to 33 percent of the height of the supporting wall, and three-dimensional cornice treatments.

#### e. Customer Entrances

Each building shall have clearly defined, highly visible customer entrances featuring at least three of the following elements:

- (i) Canopies or porticoes;
- (ii) Overhangs;
- (iii) Recesses or projections;
- (iv) Arcades;
- (v) Arches;
- (vi) Peaked roof forms;
- (vii) Outdoor patios;
- (viii) Display windows;
- (ix) Architectural tile work or moldings integrated into the building design; or
- (x) Integrated planters or wing walls that incorporate landscaped areas or seating areas.

## SPECIAL AND OVERLAY DISTRICTS

### f. Outdoor Amenities

Each site containing a big box retail building shall provide at least two of the following within a public area that measure at least 1,000 square feet:

- (i) Patio or seating area;
- (ii) Pedestrian plaza with benches;
- (iii) Transit stop;
- (iv) Window shopping walkway;
- (v) Outdoor playground;
- (vi) Water feature; or
- (vii) Other deliberately shaped and highly visible outdoor amenity such as public art.

## 4. Industrial Development

### C. Intent

This section is intended to provide minimum design standards to ensure that where industrial development occurs with other development types, the industrial structures are designed in keeping with the overall development pattern.

### D. Standards

#### (1) Building Design

##### a. Concrete tilt-up buildings are allowed subject to the following standards:

- (i.) Panels shall be embossed with reveals that repeat a common pattern.
- (ii.) All elevations visible from a public or private street shall include variable parapet heights and two feet minimum projections with the distance between not to exceed 60 feet.
- (iii.) All main entries (or storefronts) shall be identified by the use of an arcade, covered entry, spandrel glass, or other similar architectural feature.

##### b. Metal is prohibited as a primary exterior surface material on industrial buildings (including manufacturing, storage, distribution, or assembly buildings) on the side of the building oriented to the corridor or other public street. Metal may be used as a trim material on the side of the building oriented to the corridor or other public street covering no more than 30 percent of the façades of such buildings.

#### (2) Landscaping - Exterior Boundaries

A landscaped buffer of a minimum of 25 feet in width shall be maintained within and along the exterior boundaries of any industrial development or industrial park except those portions of the boundaries adjacent to dedicated public streets and alleys.

## SPECIAL AND OVERLAY DISTRICTS

(3) Landscaping - Developed Lots

All of a developed lot except that portion covered by buildings, parking lots, and driveways shall be landscaped. Landscaping may consist of grass, trees, decorative walls, screenings, terraces, fountains, pools, or other landscaping approved by the City of Waverly. Proposed landscaping shall be included upon the preliminary plat. Landscaping in accordance with the approved final plat and subdivision agreement is mandatory.

(4) Outdoor Waste Storage - Screened From View

Outdoor storage of waste material or refuse and all refuse collection bins, cans, or other containers shall be concealed from view such that the same cannot be seen from any point under ten feet in height outside of the district, or from any point indoors or outdoors, on adjoining property within the district.

(5) Landscaping - Interior Property Lines

A landscaped buffer of a minimum of ten feet in width shall be established and maintained along the interior of property lines of all lots in any industrial park except for those areas used for ingress and egress to the property through curb-cuts opening onto dedicated public streets and alleys.

**SPECIAL AND OVERLAY DISTRICTS**

**11.570 CORRIDOR OVERLAY DISTRICT DESIGN GUIDELINE BOOKLET**

SUPPLEMENTAL USE REGULATIONS

6

ARTICLE SIX

SUPPLEMENTAL USE REGULATIONS

**11.601 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 controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Ordinance. The regulations contained in this Article pertain both to uses allowed by right within various zoning districts; and to uses that require approval as Special Uses by the Planning Commission. Nothing contained in this section shall limit the right of the Planning Commission or City Council on appeal to impose additional conditions on developments seeking Special Use Permit approval.

**11.602 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 20-foot landscaped bufferyard, consistent with the standards established in Article 11.804.

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. Animal Production

1. No commercial poultry or livestock operation shall be located within 100 feet of any residential or commercial zoning district.

## SUPPLEMENTAL USE REGULATIONS

2. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the AG District, provided that any building housing such animals shall be at least 100 feet from any property line and 25 feet from any dwelling unit on the site. No animals with measurable odors shall be raised for commercial purposes within the city limits.

3. Within the AG District, any lot less than 2 acres shall be prohibited from maintaining any horses or other equine and/or hoofed animal. Any lot 2 acres and over may maintain one horse or other equine and/or hoofed animal and its immature offspring, up to a maximum total of two such animals. No stable shall be located closer than 50 feet to any dwelling unit on the site.  
*(Amended by Ord. 01-01, 1/3/01)*

c. Commercial Feedlots

Commercial Feedlots are not permitted within the jurisdiction of the City of Waverly.

### 11. 603 Supplemental Use Regulations: Residential Uses

a. Zero-Lot Line Single-Family 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 yard must equal at least twice the normal required minimum side yard and must taken by itself comply with all side yard requirements for the zoning district.
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 Lancaster County Register of Deeds and the City Clerk at the time of application for a building permit.

b. Townhouse Residential

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

1. The minimum width for any townhouse lot sold individually shall be 25 feet, except within an approved creative subdivision.
2. Coverage percentages are computed for the site of the entire townhouse common development.

c. 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. The second dwelling unit shall be served by a driveway at least ten feet in width, leading from a public street adjacent to the lot.

d. Downtown Residential and Group Residential Uses in the DC District

Downtown Residential and Group Residential uses are permitted in the DC District subject to the following conditions:

## SUPPLEMENTAL USE REGULATIONS

1. Downtown and Group Residential uses are permitted in the DC 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 by the Planning Commission.
2. Residents of units must be informed by the owner of the building that lawful commercial uses have priority over residential uses.
3. All upper level apartments must have two separate means of egress.
4. One parking space marked and reserved for tenants must be provided for each unit. This parking space shall be located within a maximum distance of 300 feet of the unit.

e. Group Residential

Where permitted, Group Residential use must comply with the following requirements:

1. Within the AG, RR, R-1, R-2, and MH districts, no more than six persons in addition to the family of the owner shall be permitted to reside in an owner-occupied dwelling unit. No more than five persons shall be permitted to reside in a non owner-occupied dwelling unit.
2. Within the R-3 and R-4 districts, no more than ten persons in addition to the family of the owner shall be permitted to reside in an owner-occupied dwelling unit. No more than seven persons shall be permitted to reside in a non owner-occupied dwelling unit.
3. A minimum of 250 square feet must be provided in the dwelling unit for each resident.

f. Mobile Home Parks

In the MH Mobile Home Residential District, which permits mobile home residential use, such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective date of this Ordinance, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to approval as a Special Use by the Planning Commission and compliance with the following regulations:

1. 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 issued by the Zoning Administrator prior to the occupancy of any new Mobile Home Park or any expansion of an existing Mobile Home Park.

2. Minimum and Maximum Area

A Mobile Home Park shall be considered to be one zoned lot. The contiguous area of a Mobile Home Park shall have a minimum of 2.5 acres and a maximum of 15 acres.

3. Density Requirements

(a) The minimum gross site area per dwelling unit shall be 5,000 square feet.

(b) The minimum size of an individual mobile home space shall be 4,000 square feet for single-wide mobile home units and 6,000 square feet for double-wide mobile home units.

(c) Each mobile home space shall have a width of at least 50 feet wide and a length of at least 80 feet.

## SUPPLEMENTAL USE REGULATIONS

### 4. Site Development Standards

(a) Setbacks: Each Mobile Home Park shall have a minimum perimeter setback of 30 feet from adjacent non-residential uses and 50 feet from adjacent residential uses. 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 and screened in conformance with Section 8 of this Ordinance. Screening shall be provided in conformance with Article 8 for any common property line with another non-residential use.

(c) Impervious Coverage: Impervious coverage for a Mobile Home Park shall not exceed 50 percent of the total site area.

(d) Open Space: Each Mobile Home Park shall provide a minimum of 400 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. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.

(e) Separation Between Mobile Home 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.

### 5. Street Access and Circulation Requirements

(a) Access to Public Street: Each Mobile Home 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 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 two off-street parking stalls for each mobile home space.

## SUPPLEMENTAL USE REGULATIONS

6. Tornado Shelters: Underground tornado shelters shall be provided in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Emergency Management authority and be large enough to meet the specific needs of the park and its residents.
  7. Utilities
    - (a) All Mobile Home Parks shall 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.
    - (b) Complete sanitary and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.
    - (c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance and other applicable city codes and public improvement design standards.
    - (d) All electric, telephone, gas, and other utility lines shall be installed underground.
  8. 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.
  9. Completion Schedule: Construction must be begin on any approved Mobile Home Park within one year of the date of approval by the Planning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.
  10. All other uses and provisions of the Waverly Mobile Home Park regulations are incorporated herein by reference. These provisions include tie-down and other structural requirements included in the Waverly Municipal Codes.
- g. Mobile Home Subdivisions
1. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Chapter of the Land Development Ordinance of Waverly. Site development regulations shall be the same as those required in the R-2 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.
  2. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance.
  3. Mobile Home Subdivisions shall provide tornado shelter facilities as required by Section 603 f(5).
  4. The minimum size of a mobile home subdivision shall be ten (10) acres.

## SUPPLEMENTAL USE REGULATIONS

### h. Earth-Sheltered Residences

No subterranean or basement structure shall be occupied for residential purposes, except for those that meet the following requirements as earth-sheltered residences:

1. The living area shall be provided with exterior windows and/or skylights with a total glassed area of at least 10% of the gross floor area of the residence. Such windows or skylights shall give direct access to natural light and open space.
2. All earth sheltered residences shall conform to the development regulations for their respective zoning districts.
3. An outdoor space shall be provided immediately outside one wall of the residence that has:
  - a) A minimum size of 500 square feet.
  - b) A minimum width of 20 feet.
  - c) An average grade elevation no more than 2 feet above or below the finished floor elevation of the residence.
4. All earth-sheltered residences shall have structural systems designed by a professional structural engineer and shall have plans signed and approved by such engineer.

### i. Homestead Exemptions (*Est. by Ord. 01-01, 1/3/01*)

A lot or parcel of land of five acres or more located within an AG District may be used for a single family dwelling, provided that a residential structure:

1. has existed on such land for more than five years;
2. such structure is, or has been, used as the primary residence associated with a farm;
3. is in conformance with other provisions of the zoning codes, the minimum building codes, and the minimum standards for water and sewage facilities and does not represent a hazard to the health and safety of occupants;
4. have been properly platted and subdivided; and
5. leaves a balance of twenty or more acres for each parcel of land platted.

## SUPPLEMENTAL USE REGULATIONS

### 11.604 Supplemental Design Standards for Residential Districts(Amended by Ord. 11-07, 4/5/11)

#### a. Building Design

1. Architectural design and style are not restricted; however architectural style shall be consistent throughout the development. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. The primary building material of residential and non residential structures within the residential zoning districts shall be negotiated with the City; however, sample materials shall include, but not be limited to, preferred materials of high quality such as brick (clay), stucco, wood, glass, pre-cast concrete, split faced concrete masonry units (CMU) with integrated color pigmentation, stone material and architectural metal siding with a standard residential appearance. Pre-engineered metal buildings or standing seam metal siding is not allowed.
3. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
4. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance. Measures shall be taken to break up the flatness of all buildings and reduce the scale of large buildings using windows and architectural ~~being~~ building design and techniques. No street-facing façade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
5. Pitched or gabled roofs shall have a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Flat roofs on buildings shall have parapets. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.

### 11.605 Supplemental Use Regulations: Civic Uses(Amended by Ord. 11-07, 4/5/11)

#### a. Community Centers and Clubs

Clubs located adjacent to residential uses shall maintain a buffer yard of not less than 40 feet along the common boundary with such residential use.

#### b. Day Care

1. Limited Day Care uses are permitted on residential lots and may be operated by the occupant of a dwelling unit on the site.
2. Day care facilities are permitted by Special Use permit in the GI General Industrial Zoning District only if incidental to a permitted primary use.
3. Day care centers accommodating more than four children or adults shall:
  - a) Not be located along a major arterial street as designated in the City's Comprehensive Development Plan.
  - b) Provide at least 100 square feet of open space per child, entirely enclosed by a building, fence, or wall with a height of at least six feet.

## SUPPLEMENTAL USE REGULATIONS

c) Conform with all requirements and licensures of the State of Nebraska.

c. Group Care Facilities and Group Homes

1. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental subdivision.
2. Group homes are permitted in the DC District only on levels above street level except that a facility 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.

**11.606 Supplemental Use Regulations: Commercial Uses** (Amended by Ord. 11-07, 4/5/11)

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. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways. Screening is subject to provisions of Article 8 of this ordinance.
2. Any spray painting must take place within structures designed for that purpose and approved by the Building Official.

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 three automobiles per bay on the approach side and one 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 in the DC 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. Campgrounds

1. Minimum Size: Each campground established after the effective date of this Ordinance shall have a minimum size of one acre.

## SUPPLEMENTAL USE REGULATIONS

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, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

### f. Convenience Storage

When permitted in the CC, GC, GI, LI, and MH Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be one acre.
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 paved 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.

### g. Kennels

1. The minimum lot size shall be two acres.
2. No building or dog runs shall be located nearer than 1,000 feet to the property line of any residential use or district.
3. All kennel facilities shall be screened around such facilities or at property lines to prevent distracting or exciting animals. Screening shall be of a type provided by Article 8, establishing landscape and screening standards.

### h. Restaurants

Restaurants in the LC District that include the accessory sale of alcoholic beverages require approval of a Special Use Permit, as set forth in Section 11.1203.

### i. Restricted Businesses (*Amended by Ord. 00-10, 1/15/01*)

1. Every restricted business shall require approval of a Special Use Permit, as set forth in Section 11.1203.
2. Not more than one restricted business shall be located within 1,500 feet of another restricted business measured from the nearest access doors of the two establishments, regardless of whether such uses are located in the same facility, separate facilities, or different zoning districts.

## SUPPLEMENTAL USE REGULATIONS

3. No restricted business shall be permitted on the same block with any property zoned AG, RR, R-1, R-2, R-3, R-4, MH, MX, LC, CC, or DC; or within 1,500 feet of any residential or civic use type as measured from the nearest access door of the restricted business to the property line of such property or outdoor use or the nearest access door of a use within a building.
4. The operation of any restricted business, if approved by Special Use Permit, shall have business hours not to exceed 11:00 a.m. to 12:00 midnight, Monday through Saturday.

### **11.607 Supplemental Design Standards for Office and Commercial Uses in the MX and LC Districts** (Amended by Ord. 11-07, 4/5/11)

#### a. Design Standards for the MX Mixed Use Urban and LC Limited Commercial Districts

In order to maintain the character of mixed use urban corridors within Waverly, the following design standards shall apply to any office or commercial use developed within the LC District:

1. No single building has a building coverage area that exceeds 10,000 square feet.
2. No street-facing facade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
3. Window area on each facade shall be equal to at least 20% of the area of that facade.
4. Exterior materials shall be brick, stone, wood clapboard, or other exterior materials typical of exterior building materials in common use in Waverly's residential districts or town center business district.
5. The dominant roof form shall be a pitched or gabled roof with a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.
6. Surface parking may be adjacent to no more than 35% of the property line of the site's principal street frontage.
7. Each site design shall provide a clear and safe method of pedestrian circulation along the street right-of-way and between the street right-of-way and a principal customer entrance of the business.

### **11.608 Supplemental Use Regulations: Industrial Uses**(Amended by Ord. 11-07, 4/5/11)

#### 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.

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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. Alternately, 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.

b. Salvage Services (Amended by Ord. 04-05, 7/5/04)

1. All salvage service operations shall be conducted within a fully enclosed building.
2. 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.
3. No Salvage Services use may be established within 1,000 feet of the nearest property line of a residential zoning district or any civic use.

**11.609 Performance Standards for Industrial Uses**(Amended by Ord. 11-07, 4/5/11)

a. Industrial Uses in the LI District: Performance Standards

The following performance standards apply to all industrial uses permitted within an LI Limited Industrial zoning district:

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.
2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of Lancaster County and the City of Waverly.
3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the LI district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
4. Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
5. Air Contaminants: No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of

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people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.

6. Odor: The emission of odors determined by the Planning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
7. Gases: No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed 5 parts per million taken at the property line of the operation.
8. Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
9. Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.
10. Storage of Chemical Products: If allowed by Special User Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial zoning district.

### 11.610 Supplemental Design Standards for Industrial Districts (Amended by Ord. 11-07, 4/5/11)

#### a. Building Design

The primary building material of Industrial structures shall be negotiated with the City; however, sample materials shall include, but not be limited to, preferred materials of high quality such as brick (clay), stucco, wood, glass, pre-cast concrete, split faced concrete masonry units (CMU) with integrated color pigmentation, and stone material.

1. Exposed concrete systems are allowed subject to the following standards:
  - I. Panels shall be embossed with reveals that repeat a common pattern.
  - II. All elevations visible from a public or private street shall include variable parapet heights and two feet minimum projections with the distance between not to exceed 60 feet.
  - III. All main entries (or storefronts) shall be identified by the use of an arcade, covered entry, spandrel glass, or other similar architectural feature.
2. Pre-engineered metal building panels will be allowed provided that a minimum of 30 percent of the street side façade(s) is of a preferred material and that the metal material is of good quality with a factory applied finish. Standard corrugated or galvanized metal is not allowed.

#### b. Landscaping – Exterior Boundaries

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1. A landscaped buffer of a minimum of 25 feet in width shall be maintained within and along the exterior boundaries of any industrial development or industrial park except those portions of the boundaries adjacent to dedicated public streets and alleys.

c. Landscaping – Developed Lots

1. All of a developed lot except that portion covered by buildings, parking lots, and driveways shall be landscaped. Landscaping may consist of grass, trees, decorative walls, screenings, terraces, fountains, pools, or other landscaping approved by the City of Waverly. Proposed landscaping shall be included upon the preliminary plat. Landscaping in accordance with the approved final plat and subdivision agreement is mandatory.

d. Outdoor Waste Storage – Screened From View

1. Outdoor storage of waste material or refuse and all refuse collection bins, cans, or other containers shall be concealed from view such that the same cannot be seen from any point under ten feet in height outside of the district, or from any point indoors or outdoors, on adjoining property within the district.

e. Landscaping – Interior Property Lines

1. A landscaped buffer of a minimum of ten feet in width shall be established and maintained along the interior of property lines of all lots in any industrial park except for those areas used for ingress and egress to the property through curb-cuts opening onto dedicated public streets and alleys.

**11.611 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts** (Amended by Ord. 11-07, 4/5/11)

Table 6-1 displays the maximum permitted sound levels that may be generated by uses in the CC, GC, BP, or LI zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

**Table 6-1: Maximum Permitted Sound Levels at Residential Boundaries**

<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq* (dba)</u>
CC, GC, LI	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55
GI	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m.	55

\* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

**11.612 Supplemental Use Regulations: Miscellaneous Uses**(Amended by Ord. 11-07, 4/5/11)

a. Communications Towers

Communications towers, where permitted, are subject to the following additional requirements:

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1. Co-Location: It is the policy of the City of Waverly to encourage the co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers or suitable buildings has been explored and exhausted. Applicants may not be denied space on an existing tower within the City of Waverly unless mechanical, structural, or regulatory factors prevent co-location.
  2. Towers shall be located so that the distance from the base of the tower to any adjoining property line, or permanent structures except tower supporting structures, or the supporting structure of another separate tower is a minimum of 100% of the tower height. (*Amended by Ord. 04-04, 5/3/04*)
  3. The tower facility shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Waverly. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood. Metal exteriors shall not be permitted for support accessory buildings.
  4. All tower facilities shall provide landscaped peripheral yards with a minimum depth of 35 feet. One tree consistent with the provisions of Article 8 shall be planted for every 500 square feet of required peripheral yard area.
- b. Landfills
1. Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.
  2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.
  3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Waverly. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.
  4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State or Federal Highway.
  5. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska Department of Environmental Quality.
  6. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Waverly and its extra-territorial jurisdiction.
- c. On-Site Dwelling for Resident Manager Permitted for Self-Storage Warehousing Only (*Amended by Ord. 14-05, 7-1-14*)
1. Minimum Lot Size: One acre.

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2. Dwelling: The minimum square feet of the dwelling unit for the resident manager shall be 900 square feet with a maximum of 1000 square feet. The dwelling shall be attached to one of the storage facility buildings and located at the main entrance of the property. The dwelling shall be a single story, slab on grade dwelling with a maximum height of 20 feet. The dwelling shall meet all Building, Energy Conservation, Plumbing, Mechanical, and Fire Codes set forth by the City of Waverly Residential Code. The exterior materials of the dwelling shall be similar to that of the materials of the storage facilities with a minimum of 30% of the street side facade(s) being of brick; native or manufactured stone. All Industrial Site Development Regulations not specified here within shall be followed.

### 11.613 Supplemental Use Regulations: Accessory Uses (Amended by Ord. 11-07, 4/5/11)

#### a. Home-Based Businesses/ Home Occupations

Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

##### 1. External Effects:

(a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.

(b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.

(c) 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 these zoning regulations. All "External Effects" criteria in items a. 1. (a), (b), (d), (e) and (f) of this subsection are applicable for the detached accessory building. Signage is not allowed upon the detached accessory building.

(d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

(e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.

(f) No home occupation shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

2. Employees: The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

3. Extent of Use: For all residential and agricultural zoning districts, the lesser of 25% of the floor area of the dwelling or 400 square feet may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.

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4. Signage: Each home-based business shall be permitted to have one wall sign not to exceed four square feet in area.
5. Traffic Generation and Parking
  - (a) Deliveries or service by commercial vehicles or trucks rated at fourteen tons or more gross empty weight is prohibited for any home-based business located on a local street.
  - (b) Parking needs generated by a home-based business shall be satisfied with off-street parking. No more than one vehicle used in connection with any home occupation shall be parked on the property. Such parking shall not be located in a required front yard. No more than two on-street parking spaces shall be used by the home occupation at any one time.
6. Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:
  - (a) Animal hospitals.
  - (b) General retail sales.
  - (c) Mortuaries.
  - (d) Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses except with a Special Use Permit.
  - (e) Stables or kennels.
  - (f) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

## SUPPLEMENTAL USE REGULATIONS

### 11.614 SMALL AND COMMERCIAL WIND ENERGY CONVERSION SYSTEMS

*(Amended by Ord. 13-11; 9/17/13)*

1. **Intent:** In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Waverly, 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 Waverly recognizes that this is an emerging technology and that new means of collecting wind energy, such as, 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.

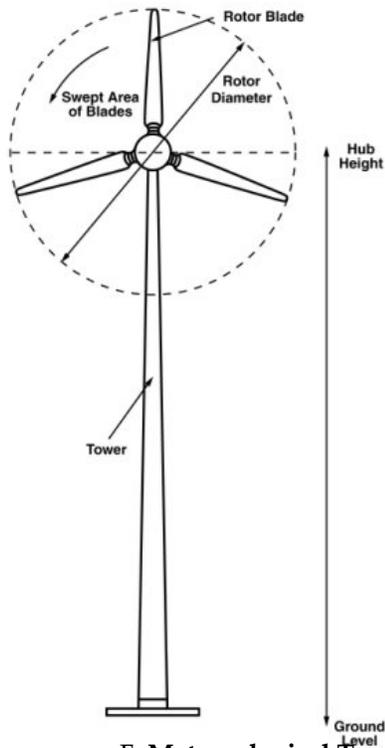
#### **Types of Wind Energy Systems:**

- A. **Small Wind Energy Conversion System - (SWECS)** – A wind energy conversion system which has a rated capacity of up to Twenty-Five (25) kilowatts, as per “Net Metering provisions, 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 Waverly Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*
- B. **Commercial Wind Energy Conversion 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.

#### **Definitions:**

- A. **Aggregated Project** – Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual 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 included as part of the aggregated project.
- B. **Fall Zone** – The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

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C. **Feeder Line** – Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of 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 generation 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 purposes of wind energy conversion 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. (see Diagram #1)

H. **Shadow flicker** – Strobe effect that occurs when sun is horizontal to rotor blades, which causes 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 Conversion 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.

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M. **Wind Turbine Generator** – The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

### 2. **Small Wind Energy Conversion 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 its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties. **To be used in conformance with Nebraska State Statutes, 70-2001 through 70-2005, regarding Net Metering.** *(25 Kilowatt limit approved by the Waverly Planning Commission to increase to a maximum of 100 Kilowatts 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 an approved **Special Use Permit** to be issued in the "AG", "RR", "R-1" to "R-4", "MX", "LC", "CC", "DC", "GC", "BP", "LI" and "GI" Zoning Districts.
3. SWECS shall maintain a minimum setback distance from any property line of one (1.0) times the total system height of the windmill for non-participating property owners. Adjoining property owners 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 one 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 WECS be located within any required setback or in any front yard area.
6. Turbines and towers shall be of tubular design, or other design approved by the City of Waverly, 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.

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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 a 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 re-graded and re-vegetated to minimize environmental impacts.
13. A SWECS application must include an agreement that addresses decommissioning and abandonment of the 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:
  - ❖ Site boundary;
  - ❖ Adjacent public right-of-ways;
  - ❖ Existing structures;
  - ❖ Proposed small wind energy system and accessory structures; Adjacent ownership and existing residences;
  - ❖ Any overhead utility lines.
2. A report from a licensed engineer containing:
  - a. Small wind system specifications including manufacturer and model; rotor diameter, tower height, tower type (freestanding or guyed);
  - b. Documentation to establish that the tower has sufficient structural integrity for the proposed 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, Lancaster County Assessor's Office, and City of Waverly Zoning Administrator, signifying utility service is approved.
5. Require proof of insurance on application.

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### 3. Commercial Wind Energy Conversion 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.

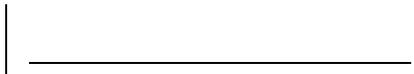
Commercial Wind Energy Conversion Systems may be included as an aggregated project. Such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CWECS within a larger project. Associated infrastructure such as power 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 one through 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" Zoning District.
3. If an aggregated project, setbacks from multiple entities (turbines) shall be one and one-tenth (1.1) times the height of the total system.
4. Each CWECS location 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; and
  - 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 distance 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. CWECS 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 highway right-of-way.
8. In no case shall a WECS be located within any required setback or in any front yard area.

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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 Federal Aviation Administration and in which event, such light 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 night time. Light system must be maintained and working at all times.
13. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.



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14. A Meteorological Tower is permitted by a **Special Use Permit** for the purposes 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.

### **Application Requirements**

The applicant for a Special Use Permit for construction of a CW ECS shall file an application with the City of Waverly 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 CW ECS.
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 within a five hundred (500) foot radius on site or offsite of the proposed CW ECS;
5. Location of any overhead utility lines on the property;
6. Location of all known communications towers within two (2) miles of the proposed CW ECS
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 Lancaster County Register of Deeds Office for each property involved in the CW ECS.
10. Provide a map illustrating all transmission lines connecting to the Substation.
11. Copy of Agreement or Notification of Compliance Letter between any Airport Authority and the Applicant.

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- 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 limitations due to public health and safety risks 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 materials;
  8. Protecting exposed soil;
  9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
  10. Maintenance of erosion controls throughout the life of the project.
- D. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
  2. Critical habitat and habitat conditions;
  3. An avian study based on the US Fish and Wildlife Services "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines"
- F. Standard drawings of the structural components of the CWECS, including structures, tower, base, and footings.
- G. Certification by a registered engineer that:
1. There is a substantial need for the proposed use or CWECS, one hundred (100) kW or greater;
  2. All applicable local, state, and federal building, 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 Lancaster County;
  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; and

## SUPPLEMENTAL USE REGULATIONS

6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

### **Construction and Operations**

- 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); Land Owner(s); CWECS Owner(s); Township Representative(s), Highway Superintendent and/or Zoning Administrator. The survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's 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 wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.

## SUPPLEMENTAL USE REGULATIONS

### Safety Measures

- A. Each CW ECS 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 CW ECS installation. CW ECS 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 CW ECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
- D. Any CW ECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.
- E. The CW ECS 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 part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CW ECS shall be warranted against any system failures reasonably expected in severe weather operation conditions

### Discontinuation and Decommissioning.

- A. CW ECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City of Waverly Zoning Administrator outlining the steps and schedule for returning the CW ECS to service. All CW ECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CW ECS.
- B. Each CW ECS shall have a decommissioning plan outlining the anticipated means and costs of removing CW ECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates 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.

## SUPPLEMENTAL USE REGULATIONS

### Noise

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

#### 11.615 Supplemental Use Regulations: Temporary Uses(Amended by Ord. 11-07, 4/5/11)

##### 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, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within a "GC" General Commercial District or more intensive zoning district.  
*(Amended by Ord 13-11; 9-17-13)*
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 and related storage units:*(Amended by Ord. 08-10; 8-4-08)*
  - a. Located on the construction site itself and shall be removed within two weeks of receipt of the certificate of occupancy.
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 in the LI District, 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.

## SUPPLEMENTAL USE REGULATIONS

(c) Hours of operation do not exceed 12 hours per day.

(d) The duration of the plant's operation does not exceed 180 days.

10. Portable storage units for on-site storage: *(Established by Ord. 08-10; 8-4-08)*

a. Number, Duration and Removal:

- 1.) No more than one portable storage unit per site.
- 2.) Storage unit shall be no larger than eight (8) feet wide, sixteen (16) feet long and eight (8) feet high.
- 3.) No portable storage unit shall remain on site in a residential district in excess of thirty (30) consecutive days during a one-year period. The building official may permit placement of portable storage container on a residential property for more than thirty days, subject to building setback requirements, provided that the property owner has a valid building permit or can demonstrate that extenuating circumstances exist to justify the extension. Extenuating circumstances include, but not limited to a disaster such as a tornado, flood or fire.
- 4.) Under no circumstances should a portable storage container be defined or allowed to become an accessory structure or use on the site.

b. Placement:

- 1.) Portable storage units are to be placed only in driveway or back yard and be set back a minimum of ten (10) feet from the front property line or five (5) feet from the rear property line.

c. Signage:

- 1.) All portable storage containers must include a sign not to exceed two (2) square feet which is clearly visible from the right of way which includes the container identification number, date of placement on the property, date that removal is required, and a local or toll free number of the storage container company.

d. Allowed Use;

- 1.) The Zoning Administrator shall allow portable storage units only upon issuance of a permit. The Governing Body shall set the fee for such permit by resolution.

11. Roll-off unit: *:(Established by Ord. 08-10; 8-4-08)*

- a. Used only in conjunction with construction, remodeling, or demolition of structure, or for large scale clean up of a site.
- b. Its use shall be temporary and used expressly for the collection of construction debris and at no time shall sanitary waste be disposed of in unit.
- c. Placement of roll-off unit shall be on property site or driveway. Roll-off units shall not be placed in streets.
- d. Allowed in conjunction with construction activities requiring a building permit or upon issuance of a temporary permit by the Zoning Administrator for uses not requiring a building permit such as a minor remodeling project.

12. 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.

## SUPPLEMENTAL USE REGULATIONS

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 and shall not exceed a time period of one (1) year. (*Amended by Ord 13-11; 9-17-13*)
  4. Decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

# 7

## ARTICLE SEVEN

### SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

#### 11.701 Purpose

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements and 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 Ordinance and provide for specific areas of exception.

#### 11.702 Required Street Frontage

Except as permitted below, any lot used in whole or part for residential purposes shall provide a minimum frontage of 20 feet along at least one public street, or shall possess an exclusive, uninterrupted private easement of access or right of way of at least 20 feet wide to a public street. There shall not be more than one single-family housing unit for such frontage or easement. A common easement of access at least fifty feet in width may be provided for two or more single-family units or for one or more duplex, two-family, townhouse, or multiple-family housing units.

#### 11.703 Lot Size Exceptions

In any district permitting residential use types, a single-family or duplex use type may be located on any lot or plot of official record as of the effective date of this Ordinance, regardless of its area or width, but subject to the following requirements:

- a. The sum of the widths of the side yards of such lot shall be the lesser of those required by the district regulations or 25% of the width of the lot. No single side yard shall be less than 10% of the width of the lot.
- b. The depth of the rear yard of such lot need not exceed 20% of the depth of the lot, but shall not be less than 20 feet.
- c. If two or more such adjacent lots are combined under single ownership, the resulting combined lots shall be treated as a single lot for purposes of applying these setback requirements.

#### 11.704 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. Encroachments on Required Yards

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

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three 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 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 structures are subject to all site development regulations of its zoning district, except as provided below: (*Amended by Ord. 02-07, 3-4-02; Ord. 04-02, 4-19-04; Ord. 04-10, 9-7-04; Ord. 11-06, 4-5-11*)
  - (a) Side Yards: An accessory structure may be located a minimum of five feet from the side lot line of the property if it is located between the rear building line of the principal building and the rear property line.
  - (b) Front Yards: No accessory structure may be located between the front building line of the principal building and the front property line.
  - (c) Rear Yard: The minimum rear yard setback for accessory structures shall be 5 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory structure is a garage with a vehicular entrance door that is directly oriented toward an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory structure shall be located within any easement or right-of-way along the rear property line.
  - (d) Maximum Size: The number of accessory structures for a residential zoned district shall be limited to no more than two accessory structures per residence, except for lots one-half acre or more in which case up to three accessory structures per residence may be permitted. The maximum total floor space of all attached and detached garages and storage buildings shall not exceed the smaller of 2000 square feet or the square footage contained in the footprint of the principal structure. The maximum building coverage for all structures on a residential lot shall not exceed the limits specified in Table 4-3. All accessory structures on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not occupy more than 30% of any required rear yard except for irregular size lots that shall comply with the maximum building coverage for the specific zoning.
  - (e) Height: The height of an accessory structure shall not exceed the height of the principal structure on the lot. Any accessory structures located within 15' of the property line shall

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

have a maximum height of 15', if placed more than 15' away from any side or rear property line, the structure can have a maximum height of 20'. The maximum height of any accessory structure shall not exceed 20 feet.

(f) Foundations: All accessory structures shall be built with a permanent foundation system that will keep the structure securely fastened in-place. Any accessory structure not built on a permanent foundation is considered a temporary structure, and is not allowed.

(g) Footings: Footings that extend below the frost line, (36" below grade), are required on all accessory structures except those with a floor area of less than 400 SF.

(h) Separation from Other Buildings: No accessory structure shall be placed within ten feet of any other building on its own property or any adjacent properties.

(i) Attached Accessory Buildings: Any accessory structure physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.

(j) Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory structure must be entirely to the rear of the line of any principal building on such adjacent lot. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

(k) Hazards: Any accessory use which creates a potential fire hazard shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.

(l) No accessory building shall be built upon any lot until construction of the principal building has begun.

(m) Appearance: The exterior appearance of all accessory structures shall be architecturally harmonious with the main residential structure and consistent with the design, scale, and appearance of the primary structure. Materials that are used to construct the accessory structure shall be exterior grade wood or better of similar appearance and durability to that of the principal structure.

(n) Carports: A carport is a covered structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to a wall. Carports that are not architecturally connected to the principal residence by similar appearance and materials are prohibited. This includes but is not limited to metal framed structures with metal roofs, post and beam structures with a low slope roof, or a low slope roof attached to another structure or between structures.

(o) Lamp posts with a maximum height of ten (10) feet, and flagpoles up to a maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.

(p) Garage Setbacks: Any garage that fronts on a public street must be set back at least 25 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

7. Lamp posts with a maximum height of ten (10) feet, and flagpoles 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

#### 1. Setbacks on Built-Up Blockfaces

These provisions apply if thirty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

(a) 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.

(b) 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.

(c) 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 blockface.

(d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

#### 2. Corner Lots

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

### 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. Satellite Antennas

1. Each lot shall have no more than one satellite antenna.

2. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.

3. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

- (a) Such antennas shall be located no less than ten feet from the property line of an adjacent property line.
- (b) The maximum height shall be 15 feet and the maximum diameter shall be 11 feet.
- (c) Each antenna shall be screened by a six-foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

### g. Vision Clearance Zones

Except in the DC District, no structure, including a fence, shall be built to a height of more than three feet above the established curb grade on the part of the lot within as vision clearance zone. The vision clearance zone shall be a triangle measured from the point of intersection of the centerline of the streets to a point 90 feet in each direction from the intersection along such centerlines. At the intersection of major streets, the 90-foot distance shall be increased to 120 feet. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

## 11.705 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 be built to any height in accordance with existing and future ordinances.

### b. Amateur Radio Towers and Federal Communication Commission Pronouncements

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Board of Adjustment may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e)).
3. Such radio towers shall not be located within any front yard of the primary use.

### c. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

### d. Communications Towers

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

Communications towers, when operated by a federally licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators. Such towers are subject to the requirements of Section 11.610a.

e. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are exempt from the height restrictions of the base district but is subject to the regulations of Section 11.610c.

f. Special Use Approvals

The Board of Adjustment may grant an exception from the height limit for a zoning district for a Special Use as part of its approval of that use. The limit or extent of this exception shall be a specific part of the special use permit.

g. 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 Waverly.

### 11.706 Exceptions to Site Development Regulations for Creative Subdivisions

a. Purpose

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for creative subdivisions, the city may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to creative subdivisions.

b. Site Area Per Unit

1. Unless otherwise provided, the site area per unit for a creative subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

c. Perimeter Yards

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
2. Structures must maintain a 20-foot minimum side yard setback from any property line that forms the boundary of the development.

d. Area and Yards for Individual Lots

1. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Waverly's efforts to protect public health, safety, welfare, community character, property values and aesthetics.

2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from that public street or private way.

e. Coverage and Landscaping Requirements

Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

### 11.707 Fence Regulations

a. Location Restriction

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

2. No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

b. Applicability

The regulations contained in Sections 11.707(b) through 11.707(j) apply to all fences with a height above grade of 30 inches and over.

c. Required Openings

Unless otherwise provided by this Ordinance or other sections of the Waverly 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.

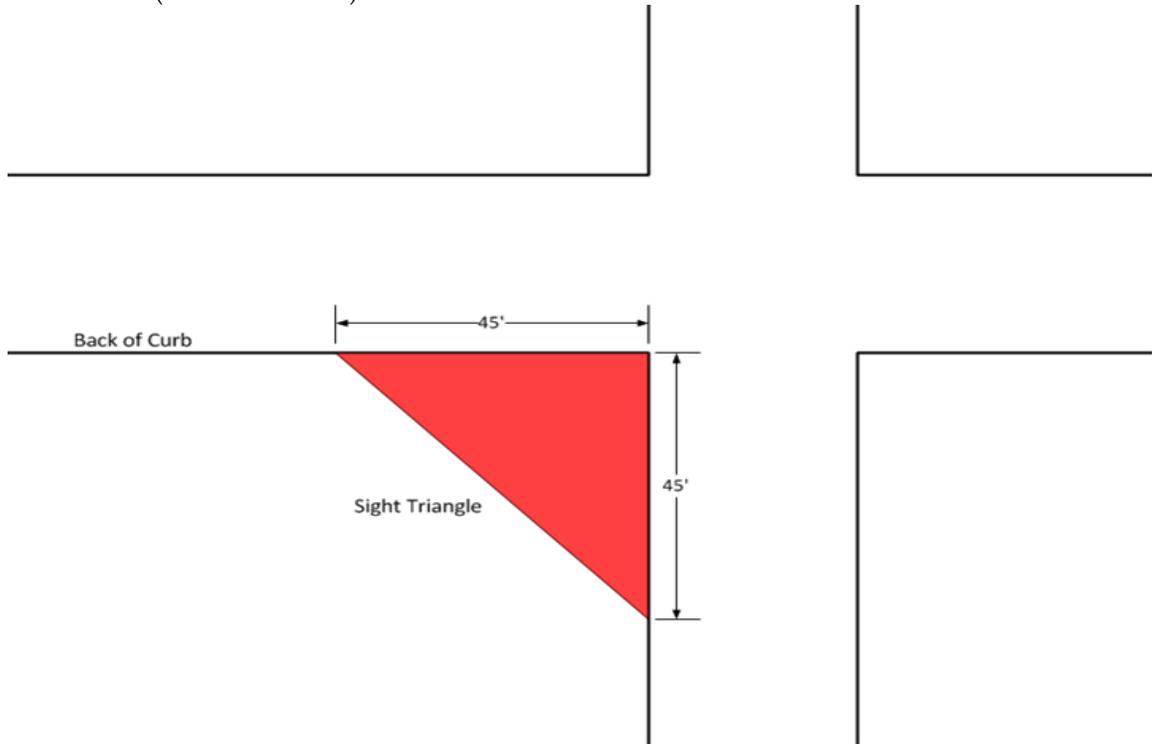
d. Sight Obstruction at Street Intersections (*Amended by Ord. 15-11, 12-8-15*)

No fence or hedge permitted or required by this article or other sections of the Waverly Municipal Code shall be built to a height of more than thirty inches (30") above the established curb grade on the part of the lot within the defined intersection sight triangle. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection. The intersection sight distance triangles are established as:

1. For major controlled intersections (e.g. stop, yield, signals etc.) and intersections with collector streets and arterial streets, the intersection sight distance triangles shall be defined as per the AASHTO Policy on Geometric Design of Highways and Streets, latest edition. For all other minor and uncontrolled intersections (residential streets) the intersection sight distance triangles on each leg of an intersection shall be defined as a triangle formed by the adjacent curb lines of

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

intersecting streets and the line joining points 45 feet on each side line from their point of intersection (as shown below).



2. At intersections of a sidewalk and alley or non-residential driveway or parking lot access, the intersection sight triangle is defined as a triangle whose legs extend 10 feet back from the sidewalk along the alley or driveway, and 20 feet parallel to and along the back of the sidewalk back from the intersecting alley or driveway.

e. Facing

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

f. Effect on Adjacent Properties and Drainage

1. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

2. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

g. Fence Construction on Utility Easements

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request of the owner of the easement whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

### h. Protective Fences around Swimming Pools

A fence with a minimum height of five feet and compliant with the terms of this section shall be required around public or private swimming pools.

### i. Residential Fences

Fences constructed 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 42 inches. The maximum height for any fence outside of a required front yard shall be six feet.
2. Exception for Street Side Yards: On corner lots, a fence built parallel to the street side yard line but set back 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 of 50 percent closed construction.
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 Waverly; and if such frontage does not provide primary access to the property.
5. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots. Other materials may be used if approved by the Building Inspector.

### j. Civic, Office, Commercial, and Industrial Fences

Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts shall be eight feet.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Waverly.

4. Barbed wire shall not be used in the construction of any fence outside of the GI General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Waverly.

### 11.708 Outdoor Lighting (Established by Ord. 10-04, 3/1/2010)

a Purpose:

This section is intended to restrict or control the use of outdoor lighting devices and techniques which contribute to overall environmental glare, light trespass, public safety, and light pollution; affect the quality of the outdoor nighttime environment; and have a detrimental effect on astronomical observations.

b Alternative material:

This section is not intended to prevent the use of materials or techniques not specifically mentioned in this section, provided that such alternative is approved by the Zoning Administrator or the Public Works Director along public rights-of-way.

c Lighting terms.

1. **Outdoor light fixtures** shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include but not be limited to search-, spot-, or floodlights for buildings and structures, recreational areas, parking lots, landscape lighting, signs, street lighting, and display and service areas.

2. **Full Cutoff** shall mean a light fixture that cuts off all upward transmission of light.

3. **Fully shielded** shall mean fixtures that are shielded or designed in such a manner that light emitted by the fixture, either directly by the lamp or indirectly by the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted which prevents a line of sight to the bulb when viewed from another property.

4. **Filtering** shall mean that light emitted by the lamp passes through a glass, acrylic, or translucent enclosure. Quartz glass does not meet the requirement of filtering.

5. **Lumens** shall mean measure of brightness of the illumination exiting a bulb.

6. **Spotlight** shall mean a luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

7. **Flood light** shall mean a luminaire or bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

8. **Glare** shall mean discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.
9. **Horizontal (or vertical) foot-candles** shall mean the amount of light striking a vertical or horizontal plane.
10. **Light source** shall mean the bulb and lens, diffuser, or reflective enclosure.
11. **Light trespass** shall mean light projected onto a property from a fixture not located on that property. No line of sight to a glaring light source is permitted from 5 feet or more inside a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

d. Requirements for shielding and filtering.

Requirements for shielding and filtering of light sources are set forth in Table 7-1 listed below:

**SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS**

<b>Table 7-1 Shielding and Filtering Requirements for Light Sources</b>		
<b>Fixture Lamp Type</b>	<b>Shielded</b>	<b>Filtered</b>
Low-pressure sodium	Fully	None
High-pressure sodium	Fully	None
Metal halide (Note 1)	Fully	Yes (Note 3)
Fluorescent	Fully (Note 4)	Yes (Note 5)
Quartz (Note 2)	Fully	None
Incandescent greater than 100W	Fully	None
Incandescent 100W or less	None	None
Mercury vapor	Prohibited	Prohibited
Fossil fuel	None	None
Glass tubes filled with inert gases	None	None
Other sources	By approval of the Zoning Administrator and Public Works Director	By approval of the Zoning Administrator and Public Works Director
NOTES:		
Note 1: Should be in enclosed luminaries.		
Note 2: Not considered an incandescent light source.		
Note 3: Most glass, acrylic, or translucent enclosures meet filtering requirements.		
Note 4: Outdoor signs constructed of translucent materials with internal lighting do not require shielding.		
Note 5: Warm, white, natural lamps are recommended.		

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

### e. Exemptions:

The following installations are exempt from the provisions of this section:

#### 1. Nonconforming fixtures:

a.) Luminaries existing immediately prior to the effective date of this Section which are located on single family residential property adjacent to single family residential property and commercially zoned property adjacent to single family residential property or public ways which are in violation of this section may be declared a public nuisance after a complaint filed by an adjacent residential property owner of the City if they meet one of the following criteria:

- 1.) Exceed one (1) horizontal foot-candle at the property line, exclusive of street lights and other exterior lighting sources at the residential property line; or
- 2.) Directs a beam of light to a point beyond the property line; or
- 3.) Creates unreasonable glare because the fixture is not a cut-off or shielded style of luminaire.

b.) If it is determined that such non-conforming luminaries are unlawful or a nuisance, then such luminaries shall be altered by either replacement with conforming luminaries, shielding, landscaping, berms or directional modifications or controls within sixty (60) days of receiving a written notice of violation from the City. The 60 day cure period shall commence upon receipt of official notice by the property owner of violation of this Section.

2. Fossil-fuel lighting, such as fixtures using natural gas combustion as a light source.

3. Ornamental or thematic lighting in any Zoning District if specifically approved by the Planning Commission. The maximum height of any such ornamental light shall be 16 feet.

4. Construction or emergency lighting provided that such lighting is removed on completion of the construction project or emergency.

5. Temporary event lighting, such as searchlights, subject to issuance of a temporary permit by the Chief Building Official for a specific duration of time.

6. Exemptions granted by the Zoning Administrator and Public Works Director for special conditions, upon issuing a written finding that conditions exist that make conforming fixtures inadequate to the specific task.

### f. Interpretation:

When enforcing the provisions of this Section, the City shall enforce such provisions in a non-arbitrary and non-discriminatory manner and such enforcement shall be interpreted by the City such that ordinary people can understand which acts are prohibited and which acts are allowed by this Section.

### g. Inclusion on Permit Applications:

For all building projects other than single family residential, lighting plans shall be submitted as part of building, or sign permits and shall be reviewed as part of the normal review process for such permits.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

### 11.709 Appeals

Denial, revocations, 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 11.1208 through 11.1210.

## LANDSCAPING AND SCREENING STANDARDS

# 8

## ARTICLE EIGHT

### LANDSCAPING AND SCREENING STANDARDS

#### 11.801 Purpose

The Landscaping and Screening Regulations provide additional guidance on the development of sites within Waverly 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 Waverly.

#### 11.802 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 which 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.

#### 11.803 Landscaping Requirements

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

#### 11.804 Landscaping Materials and Installation Standards

##### a. Official List of Prohibited Plant Materials

No plant material listed on a list of restricted or prohibited plant materials provided through the office of the Zoning Administrator shall be installed in required landscaped areas or bufferyards. All plant materials shall conform in size, species and spacing with this section of the ordinance.

##### b. Use of Inorganic Landscaping Materials

No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than 35% of the minimum required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than 5 feet in width.

**LANDSCAPING AND SCREENING STANDARDS**

**Table 8-1: Required Landscape Depth**

<b>Zoning District</b>	<b>Depth of Landscaping Adjacent to Street Property Line</b>	<b>% of first 80 feet of streetyard that must be landscaped</b>	<b>% of streetyard beyond first 80 feet of streetyard that must be landscaped</b>
<b>AG</b>	35 feet	75% of whole streetyard	NA
<b>RR, R-1</b>	20 feet	65% of whole streetyard	NA
<b>R-2</b>	20 feet	55% of whole streetyard	NA
<b>R-3</b>	15 feet	50% of whole streetyard	NA
<b>R-4</b>	15 feet	50% of whole streetyard	NA
<b>MH</b>		See 11.603h	
<b>MX</b>	10 feet	25% of whole streetyard See Table 4-3	No Requirement
<b>LC</b>	15 feet	25% of whole streetyard	5%
<b>DC</b>	No Requirement	No Requirement	No Requirement
<b>CC</b>	10 feet	20%	5%
<b>GC</b>	10 feet	20%	5%
<b>BP</b>	25 feet	40%	10%
<b>LI</b>	10 feet	15%	No Requirement
<b>GI</b>	10 feet	No Requirement	No Requirement

**11.805 Bufferyard Provisions**

These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 8-2. Bufferyards are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

- a. The bufferyard 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.

LANDSCAPING AND SCREENING STANDARDS

**Table 8-2: Bufferyard Requirements (in feet)**

	District B (Less Intensive Adjacent District)			
District A (More Intensive District) Note 3	AG (Note 1)	R-1, R-2 (Note 1)	R-3, MH (Note 1)	R-4 (Note 1)
R-4	20	20	---	---
MX	Note 2	Note 2	Note 2	---
DC	---	---	---	---
LC	20	20	20	10
CC, GC	30	30	30	20
LI	40	40	40	30
GI	100	100	100	100

**Notes to Table 8-2:**

**Note 1:** Applies only to residential uses previously established in the zoning district.

**Note 2:** Vertical screening only is required as set forth in Section 806.

**Note 3:** Buffer requirements do not apply to single-family, duplex, or townhouse residential uses established in District A

b. When a street separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in Table 8-2.

c. Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

**11.806 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, or other environmental effects.

## LANDSCAPING AND SCREENING STANDARDS

### b. Opaque Barrier

A six foot opaque barrier shall be provided which visually screens the conditions listed in Section 806 (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 berm 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

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

### d. Screening: Effect on Drainage

Screening shall not adversely affect surface water drainage.

### e. Permitted Interruptions of Screening

Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed 20% of the length of the required screened area.

## 11.807 Tree Plantings

In any landscaped area for commercial uses only required by the Minimum Depth Requirements, the Bufferyard Requirements, or the Parking Lot Interior Landscaping Requirements, one tree of an approved species with a minimum caliper size of two inches shall be planted and maintained for each 500 square feet of required landscaped area. Existing trees approved for preservation shall be counted toward satisfaction of this requirement.

## 11.808 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. When required, a Landscape Plan shall be submitted with each application for a building permit. Such plan shall be reviewed by the Zoning Administrator for compliance with the provisions of this section.

### b. Maintenance of Required Landscaping

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

## LANDSCAPING AND SCREENING STANDARDS

### c. Obstruction of View

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

### d. Earth Berm Locations

All earth berm locations shall be reviewed by the Zoning Administrator, or his/her designee to determine how the berms shall relate to drainage and public utilities.

### e. Exceptions

A development may continue to comply with the bufferyard 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 bufferyard or screening provisions.

## OFF-STREET PARKING

# 9

## ARTICLE NINE

### OFF-STREET PARKING

#### 11.901 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.

#### 11.902 General Applications

##### a. Applicability

Off-street parking shall be provided for any new building constructed; for new uses or conversions of existing buildings; or for enlargements of existing structures.

##### b. Exemptions

1. Any use within the DC Downtown Commercial District other than Downtown Residential is exempt from the off-street parking requirements provided by Section 9-3. Any off-street parking facility constructed in the DC District after the effective date of this Ordinance must comply with the design standards set forth in this Article.

#### 11.903 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 0.5 or greater, the requirement shall 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 or other official determinations of occupancy in effect for the City of Waverly at the time the use is established.

**OFF-STREET PARKING**

**TABLE 9-1: Minimum Off-Street Parking Requirements**

<b>Agricultural Use Types</b>	
Horticulture	1 space per 1,000 square feet of sales area.
Crop/ Animal Production	No requirement.
<b>Residential Use Types</b>	
Single-Family Residential	2 spaces per dwelling unit.
Duplex Residential	2 spaces per dwelling unit.
Two-Family Residential	2 spaces per dwelling unit.
Multi-Family Residential	1.5 spaces per efficiency or 1-BR unit; 2 spaces per 2-BR unit; 2.5 spaces for 3 or more BR unit; 1 space per 2 units for elderly housing.
Downtown Residential	1 space per dwelling unit
Group Residential	1 space for each resident.
Mobile Home Residential	2 spaces per dwelling unit.
Retirement Residence	1 space per independent living unit; 0.5 spaces per assisted living unit;
<b>Civic Use Types</b>	
Administration	1 space for 300 square feet of gross floor area.
Cemetery	No requirement.
Clubs	1 space per 4 person capacity.
College/University	1 space per three students.
Convalescent Services	1 space for 4 beds.
Cultural Services	1 space per 500 square feet of gross floor area.
Day Care Services	1 space per 5 person capacity + 1 space per employee of largest shift.
Group Care Facility	1 space per 4 person capacity + 1 space per employee of largest shift.
Group Home	1 space per 4 person capacity + 1 space per employee of largest shift.
Guidance Services	1 space per 300 square feet.
Health Care	1 space per 300 square feet + 1 space per employee of largest shift.
Hospitals	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 + 10 stalls 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 maximum shift + 1 stall per 1,000 sq. ft.
Secondary Education	1 space per employee of max shift + 1 space for each 3 11th and 12th grade students.
Utilities	1 space per employee of maximum shift

## OFF-STREET PARKING

**TABLE 9-1: Minimum Off-Street Parking Requirements**

<b>Commercial Use Types</b>	
Agricultural Sales/Service	See Schedule A.
Auto Rental and Sales	See Schedule A.
Auto Service *	3 times service capacity.
Body Repair *	3 spaces per repair stall.
Business Support Services	1 space per 500 square feet.
Campground	1 space per camping unit.
Cocktail Lounge	1 space per 200 square feet.
Commercial Recreation	1 space per 4 person capacity.
Communication Services	1 space per 500 square feet.
Construction Sales	See Schedule A.
Consumer Services	1 space per 200 square feet.
Convenience Storage	1 space per 20 storage units. **
Equipment Sales/Service	See Schedule A.
Food Sales (All Types)	1 space per 200 square feet.
General Retail Services	1 space per 200 square feet.
Liquor Sales	1 space per 200 square feet.
Lodging	1 space per unit.
Personal Improvement	1 space per 200 square feet.
Personal Services	1 space per 300 square feet.
Pet Services	1 space per 500 square feet.
Restaurants (Drive-in)	1 space per 50 square feet of customer service area.
Restaurants (General)	1 space per 2.5 person capacity in dining area.
Stables/Kennels	1 space per employee + 1 stall per 5,000 sq. ft. of site area.
Surplus Sales	See Schedule A.
Trade Services	1 space per 500 square feet.
Veterinary Services	1 space per 500 square feet.

\* Auto Service and Body Repair subject to other restrictions applicable under this ordinance:

See Section 4: Use Types - "Vehicle Storage," p. 4-10; also,  
Section 6: Supplemental Use Regulations, "Outdoor Storage," p. 6-17.

\*\* This standard may be reduced by up to 20% at the discretion of the Building Official, if site plan review demonstrates that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation.

**OFF-STREET PARKING**

**TABLE 9-1: Minimum Off-Street Parking Requirements**

<b>Office Use Types</b>	
Corporate Offices	1 space per 300 square feet.
General Offices	1 space per 300 square feet.
Financial Services	1 space per 300 square feet.
Medical Offices	3 spaces per staff doctor or dentist.
<b>Miscellaneous Use Types</b>	
Broadcasting Tower	See Schedule A.
Non-Putrescible Landfill	See Schedule A.
All Landfills	See Schedule A.
<b>Industrial Use Types</b>	
Agricultural Industries	See Schedule A.
Light Industry	See Schedule A.
General Industry	See Schedule A.
Heavy Industry	See Schedule A.
Railroad Facilities	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.

<b>Schedule A</b>	
This schedule sets forth minimum off-street parking requirements for uses with elements that have different functions and operating characteristics	
<b>Function of Element</b>	<b>Requirement</b>
Office or Administration	1 space per 300 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.

**11.904 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 any multi-family residential uses shall be at least six feet from any main building. No more than 20% of the required parking may be 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 within a zoning district that permits the Off-Street Parking use type. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission.

## OFF-STREET PARKING

### 11.905 Parking for People with Disabilities

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 disabilities. Parking spaces shall be van-accessible. 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 Stalls	Number of Required Accessible Spaces	Number of Stalls	Number of Required Accessible Spaces
1-25	1	201-300	7
26-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of total
101-150	5	1,001 and over	20, plus 1 for each 100 stalls over 1,000
151-200	6		

### 11.906 Off-Street Parking Design Standards

#### a. Dimensions

1. Standard parking stalls shall be 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. Where parking stalls are located adjacent to landscaped areas, the paved depth of such stalls may be decreased by two feet to provide for a vehicle overhang area. The vehicle overhang area may not encroach into a required landscaped area or public sidewalk.
4. 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 exhibiting the 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 with concrete, asphalt, or brick and shall be 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.

## OFF-STREET PARKING

### 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 berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Building Official.
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 LI 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.
6. Landscaping or screening installed in any required landscaped area shall not obstruct the view from the off-street parking facility to any driveway approach, street, alley, or sidewalk. Landscaping shall further not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.

### 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-family, 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.

## OFF-STREET PARKING

g. Adjustment

For uses subject to a Special Use Permit approval, 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.

**11.907 Bicycle Parking**

a. Parking Requirements

1. Each parking facility providing 50 spaces or more shall provide parking accommodations for bicycles as provided by the Table 9-3:

**TABLE 9-3: Bicycle Parking Requirements**

Number of Parking Stalls	Required Bicycle Spaces
50-100	5
100-150	8
150-200	10
Over 200	2 additional spaces for each 50 parking stalls

2. Bicycle parking facilities shall include bicycle racks secured to prevent easy removal, bicycle lockers, or bicycle posts or bollards expressly designed for the secure storage.
3. The location of bicycle parking facilities shall be at least as convenient to the main entrance of the primary use as the most convenient automobile parking not reserved for use by disabled people.
4. Bicycle parking should be located to prevent hazards or obstructions to the normal flow of pedestrians into a use.

**11.908 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 9-4.

## OFF-STREET PARKING

**TABLE 9-4: Off-Street Loading Requirements**

Gross Floor Area of Use (square feet)	Number of Required Loading Spaces
1,000 - 10,000	1 (10x25)
10,000-30,000	1 (10x25)
30,000-50,000	2 (10x70)
Larger than 50,000	3 (10x70)

c. Design Standards

1. Each loading space shall have the minimum sizes defined by Table 9-4.
2. Paving of loading spaces and access areas shall be permanent, durable, and free of dust.
3. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Article.

**11.909 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; camper shells, toppers, and other similar appurtenances intended for attachment to a personal vehicle; trailers under 25 feet in length, and boats under 25 feet in length. The maximum height of any Personal Vehicle shall be eight feet from grade. Trucks, tractor cab units, trailers, recreational vehicles and boats over 25 feet in length, and vehicles over ten tons gross empty weight shall be defined as heavy commercial vehicles.

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 of personal vehicles is permitted on a paved driveway (outside of an enclosed structure) within the front yard setback, but shall in no case encroach upon the public right-of-way.
3. Parking of personal vehicles may occur in the rear yard setback (outside of an enclosed structure and not on the front yard paved driveway) if the Zoning Administrator determines that such parking conforms to the provisions of the Zoning Ordinance, meets the following conditions:
  - (a) The parking space is provided on a paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.
  - (b) The paved parking does not exceed the maximum impervious coverage limit for the lot.
  - (c) The parking of motor vehicles and/or towed trailers, Recreational Vehicles (RV's), boats, or other recreational equipment shall not be permitted in the front, rear, or side yards of a platted lot unless they are parked on a concrete paved surface. *(Amended by Ord 13-11; 9-17-13)*

## OFF-STREET PARKING

4. Heavy commercial vehicles, including tractor cab units rated at more than 10 tons gross vehicle weight, and recreational vehicles shall not be parked on any lot within the RR, R-1, R-2, R-3, R-4, or R-5 residential zoning districts, except as provided below.

c. Special Provisions for Recreational Vehicles and Boats

Parking and storage of recreational vehicles and boats within residential districts is subject to the following additional conditions. These conditions are in addition to those requirements for the parking of Personal Vehicles.

1. Recreational vehicles and boats must be maintained in a clean, well-kept state.
2. Recreational vehicles and boats equipped with liquefied petroleum gas containers must ensure that 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. Recreational vehicles may be used as temporary parking by non-paying guests for a maximum of three consecutive days or fourteen days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.
4. Recreational vehicles and boats may not be connected to utility lines for any period that exceeds 30 consecutive days.
5. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.
6. If feasible on a lot, recreational vehicles and boats shall be parked outside of required front yard and street side yard setbacks.

**11.910 Supplementary Regulations: Storage and Parking of Unlicensed or Other Vehicles**

*(Amended by Ord. 07-03; 4-2-07)*

a. The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Waverly; provided that conformance with the following shall not constitute a violation of this section:

1. The storage of any unlicensed and/or unregistered motor vehicle in a fully enclosed garage.
2. The storage of operable off-highway farm or industrial vehicles on tracts zoned AG Agriculture or GI industrial uses, and used in agricultural or industrial activity conducted on the premises.
3. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Waverly, except in enclosed buildings or garages or where otherwise permitted by this ordinance.

## OFF-STREET PARKING

4. Parking, storage or keeping, other than in a fully enclosed garage of any non-operable motor vehicle is prohibited on any residential zoned lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Waverly; provided, however, that automobiles that are non-operable by reasons of repair work being done thereon may be parked on the residential lot of the owner of said automobile within the Waverly Zoning jurisdiction under the following conditions:
  - (a) The automobile is owned by the occupier of the premises and registered to him/her at that address.
  - (b) The period of said repair work does not exceed ten days in duration.
  - (c) Repair work is at all times conducted on a paved driveway.
  - (d) No more than one automobile in need of repair is situated on the premises at the same time.
- b. Before the City removes a vehicle suspected of being in violation of this section, by reason of it being inoperable, the City shall give the owner of the premises upon which the offending vehicle is situated a 48-hour warning notice. Notice shall be given by tagging the motor vehicle and by regular mail, postage pre-paid to the occupier of the premises on which the motor vehicle is situated. Any motor vehicle not removed from the premises within such 48-hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he/she chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the law enforcement agency serving the City of Waverly to demonstrate operability of the vehicle within said 48-hour period. If operability of the vehicle is satisfactorily demonstrated, the automobile need not be removed.
- c. Before the City issues a citation to the vehicle owner for having unlicensed vehicle(s) longer than thirty (30) days, the City shall give the owner of the vehicle(s) a 21 day warning notice. Notice shall be given by certified mail, postage pre-paid to the owner of the vehicle(s). Any motor vehicle not licensed within such 21 day period shall be issued a citation.

# 10

## ARTICLE TEN

### SIGN REGULATIONS

#### 11.1001 Purpose

The Sign Regulations provide standards for communicating information in the environment of the City of Waverly 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.

#### 11.1002 Definition of Terms *(Amended by Ord. 07-13; 11-5-07)*

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

1. 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.
2. Attached Sign: A sign which is structurally connected to a building or depends upon that building for support
3. Auxiliary Design Elements: Terms which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.
4. 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.
5. Banner: Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
6. Building Marker: An historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
7. Business Center Identification Sign: A sign which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.
8. 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.
9. Canopy Sign: A sign which is attached or made an integral part of a canopy.
10. Clearance: The distance from the bottom of a sign face elevated above grade and the grade below.
11. Detached Sign: A sign which is self-supporting and structurally independent from any building.
12. Directional Sign: A sign which serves only to designate the location or direction of any area or place.

## SIGN REGULATIONS

13. Double-Faced Sign: A sign consisting of no more than two parallel faces supported by a single structure.
14. Electronic Information Sign: Any sign intended primarily to provide information of general community interest, including time, temperature, and other atmospheric conditions, date, news, traffic control, or commercial messages.
15. Frontage: The length of a property line of any one premises abutting and parallel to a public street, private way, or court.
16. Ground Sign: A detached sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than 3 feet.
17. Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs. Illumination techniques referred to by these Regulations include:
  - (a) Bare Bulb: Illumination of signs using unshielded bulbs.
  - (b) Direct Illumination: Illumination of signs through flood lights whose luminous surface is visible to the normally located observer.
  - (c) Flame: Use of open flame or torches as a light source.
  - (d) Flashing: Use of an intermittent light source, including the illusion of intermittence through animation or other external light sources. Electronic information signs are excluded from this definition, except for any flashing mode of these signs.
  - (e) Indirect: Use of a light source whose luminous surface is not visible to the normally located observer.
  - (f) Internal: Use of a light source concealed or contained within the sign, and visible by shining through a translucent surface.
  - (g) Neon or gas tube: Use of a light source supplied by passing electricity through a tube containing neon or other gas, bent to form letters, symbols, and other shapes.
18. Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.
19. Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.
20. 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.
21. Moving Sign: A sign which conveys its message through rotating, changing, or animated elements.
22. Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.
23. Off-Premise Sign: A sign which directs attention to a business, profession, commodity, or service offered on a property other than that on which the sign is located.

## SIGN REGULATIONS

24. Pole Sign: A 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.
25. 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.
26. 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.
27. Premises: A tract of one or more lots or sites which are contiguous and under common ownership or control.
28. Projecting Signs: A sign other than a wall sign that is attached to and projects from a building face.
29. Residential Sign: A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.
30. 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.
  - (a) 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.
  - (b) Above-peak Roof Sign: A roof sign positioned above the peak of a roof or above a parapet or cornice.
31. 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.
32. Sign Type: A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.
33. 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.
34. 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.
35. Wall Sign: A sign attached to and parallel with the side of a building.
36. Window Sign: A sign painted on or installed inside a window for the purpose of viewing from outside the premises.
37. 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 required by the site development regulations.

## SIGN REGULATIONS

### 11.1003 General Sign and Street Graphics Regulations

#### a. Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the City of Waverly must comply with the provisions of this chapter and of other relevant provisions of the City of Waverly's Municipal Code; and relevant building codes including the:

Uniform Building Code.

Uniform Plumbing Code.

National Electric Code.

Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways (Nebraska Department of Roads)

#### b. Resolution of Conflicting Regulations

This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Waverly'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 trees.
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 or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
4. Signs which 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 date of abandonment.
6. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers, except as provided below.
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.

## SIGN 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 32 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 which give traffic, directional, or warning information.
4. Seasonal decorations for display on private or public property.
5. On-premise construction signs.
6. One temporary sign per zoned lot for grand openings or special events, provided that such sign remains in place for a maximum of seven days.
7. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
8. Residential signs under 2 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. Temporary and Civic Signs

1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
  - (a) Such signs are subject to the permit procedures set forth in this section.
  - (b) The size of such signs does not exceed the limitations set forth in Table 10-3.
  - (c) No more than one such sign is permitted at any single premises.
  - (d) Temporary or portable signs may be present at any single premises for a maximum of 30 days per year.
2. Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements:
  - (a) Such signs are subject to the permit procedures set forth in this section.
  - (b) Such signs are installed no earlier than 30 days before the date of the event or election and removed no later than 7 days after the date of the event or election.

## SIGN REGULATIONS

(c) The maximum size of such signs is 10 square feet when located in any residential and LC Limited Commercial zoning district; and 100 square feet in any other zoning district.

f. Bufferyards

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

g. 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.

### 11.1004 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 roof line.
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 in the DC District shall be as follows:
  - (a) 2 feet over public sidewalks less than 12 feet wide;
  - (b) 3 feet over public sidewalks 12 feet wide or more, or over private property.

No projecting sign in any other district may project by more than 24 inches into a required setback.

## SIGN REGULATIONS

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) 10 feet outside of parking areas or driveways, but within three feet of such areas; or within 50 feet of the right-of-way lines formed by a street intersection;
  - (c) 14 feet over parking lots;
  - (d) 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) 10 feet for locations outside of parking areas or driveways, but within three feet of the edge of such areas; or within 50 feet of the right-of-way lines formed by a street intersection.
  - (c) 14 feet over parking lots;
  - (d) 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.

## SIGN REGULATIONS

### 11.1005 General Regulations: Other Design Elements

#### a. Illumination

1. 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

1. 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.

### 11.1006 Specific Regulations For Zoning Districts

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

### 11.1007 Method of Measurement for 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 is 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.

## SIGN REGULATIONS

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.

**11.1008 Permitted Sign Types by Zoning Districts**

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

**11.1009 Auxiliary Design Elements**

Table 10-2 sets forth auxiliary design elements permitted within each zoning district of the City of Waverly.

**11.1010 Maximum Permitted Sign Area**

Table 10-3 sets forth the maximum sign area permitted within each zoning district of the City of Waverly.

**11.1011 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.

**11.1012 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. Maintenance of Valid Sign Permit

The owner of a property containing signs requiring a permit under these regulations shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.

c. Sign Permit Applications

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

d. Application 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.

## SIGN REGULATIONS

### e. Action

Within ten working days 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 with the requirements of this Article.

### f. 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.

### 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.

## 11.1013 Nonconforming Signs

- a. All permanent signs in place and lawfully established on the effective date of these Regulations shall be considered as legal nonconforming signs. The copy of such a sign may be changed from time to time, provided that the sign area shall not be enlarged beyond the sign area in existence on the effective date.
- b. Any nonconforming sign which 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.
- c. For business centers pre-existing on the effective date of these Regulations which do not conform to the total permitted sign area provisions of this Article, individual signs may be replaced, modified, or substituted prior to fifteen years from the effective date of this Ordinance. 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.

## 11.1014 Discontinuance of Nonconforming Signs

Within any zoning district, all on-premise signage must comply fully with the provisions of these Regulations, unless otherwise provided, within fifteen years of the effective date of these Regulations.

**SIGN REGULATIONS**

**Table 10-1: Permitted Signs by Type and Zoning Districts**

<b>Sign Types</b>	<b>AG</b>	<b>RR</b>	<b>R-1</b>	<b>R-2 R-3</b>	<b>R-4</b>	<b>M H</b>	<b>MX</b>	<b>LC</b>	<b>CC</b>	<b>DC</b>	<b>GC</b>	<b>BP</b>	<b>LI</b>	<b>GI</b>
<b>Detached Signs</b>														
Residential	P	P	P	P	P	P	P	P	P	N	N	N	N	N
Business Identification	P	P	P (C)	P	P	P	P	P	P	P	P	P	P	P
Incidental	P (C)	P (C)	P (C)	P (C)	P (C)	P	P	P	P	P	P	P	P	P
Ground Pole	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	N	N	N	N	N	N	N	N	P	N	P	N	N	N
<b>Attached Signs</b>														
Awning	N	N	N	P	P	P	P	P	P	P	P	P	P	P
Banner	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Building Marker	P	P	P	P	P	P	P	P	P	P	P	P	P	
Canopy	N	N	N	N	N	P	P	P	P	P	P	P	P	P
Business Identification	P	P (C)	P (C)	P	P	P	P	P	P	P	P	P	P	P
Incidental	P (C)	P (C)	P (C)	P	P	P	P	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	P	P	P	P	P	P	N	P	P
Projecting	P	N	N	N	N	N	P	N	P	P	P	N	N	N
Roof, Integral	N	N	N	N	N	N	N	N	P	P	P	P	P	P
Roof, Above Peak	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Wall	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Window	N	N	N	N	N	N	P	P	P	P	P	P	P	P
<b>Miscellaneous</b>														
Flag	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Portable (On-Premise)	N	N	N	N	N	N	N	N	N	N	N	N	N	N

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

## SIGN REGULATIONS

Table 10-2 Permitted Signs by Type and Zoning Districts

Sign Types	AG	RR	R-1	R-2 R-3	R-4	M H	MX	LC	CC	DC	GC	BP	LI	GI
<b>Design Element</b>														
<b>Illumination</b>														
Indirect	P(C)	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P	P	P	P
Direct	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Internal	P(C)	P(C)	P(C)	P	P(C)	P	P	P	P	P	P	P	P	P
Neon	N	N	N	N	N	N	N	N	P	P	P	N	P	P
Flashing	N	N	N	N	N	N	N	N	P	P	P	N	P	P
Flame	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Bare Bulb	N	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>Other</b>														
Electronic Information	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Moving	N	N	N	N	N	N	N	N	N	N	P	N	N	P
Rotating	N	N	N	N	N	N	N	N	N	N	P	N	N	P

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

**SIGN REGULATIONS**

<b>TABLE 10-3: MAXIMUM PERMITTED SIGN AREA FOR ZONE LOT BY ZONING DISTRICT</b>									
<i>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:</i>									
<b>Zoning District</b>	<b>AG</b>	<b>RR R-1 R-2</b>	<b>R-3 R-4 MH</b>	<b>MX LC</b>	<b>CC</b>	<b>DC</b>	<b>GC</b>	<b>BP</b>	<b>LI GI</b>
<b>Square Feet of Signage per Linear Foot of Frontage</b>	N/A	N/A	N/A	.50	1.0	1.0	2.0	1.0	2.0
<b>Maximum Total Square Feet</b>	Note 1	Note 2	Note 3	Note 4	200 Note 4	200	300 Note 5	300 Note 5	400 Note 5

Table 10-3 (Amended by Ord. 07-13; 11-5-07)

**Note 1:**

200 square feet for civic or commercial uses, 2 square feet for residential uses.

**Note 2:**

Maximum sign size is 100 square feet for project identification signs; 32 square feet for civic uses, 2 square feet for residential uses.

**Note 3:**

Maximum sign size is 32 square feet for civic uses, 100 square feet for project identification signs for multi-family or mobile home developments and for non-residential uses when permitted, 2 square feet for residential uses, including home occupations.

**Note 4:**

On premises with primary residential use, maximum sign size is 75 square feet for project identification signs for multi-family developments, 2 square feet for residential uses, including home occupations.

**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.

**SIGN REGULATIONS**

<b>TABLE 10-4: PERMITTED SIGNS BY NUMBERS, DIMENSIONS, AND LOCATION</b>									
<i>Each individual sign shall comply with the regulations for maximum quantity, maximum size, minimum setbacks, and height limits shown in this table:</i>									
<b>Zoning District</b>	<b>AG</b>	<b>RR R-1 R-2</b>	<b>R-3 R-4 MH</b>	<b>MX LC</b>	<b>CC</b>	<b>DC</b>	<b>GC (Note 1)</b>	<b>BP (Note 1)</b>	<b>LI GI (Note 1)</b>
<b>DETACHED SIGNS</b>									
<b>Number Permitted</b>									
Per Premise	1	1	1	1	N/A	1	N/A	NA	N/A
Per Feet of Frontage	N/A	N/A	N/A	N/A	1 Per 300	N/A	1 Per 200	1 Per 300	1 per 200
<b>Maximum Size*</b> (Sq. feet)	100*	100*	100*	75*	100*	100	150	150	200
<b>Maximum Height</b> (feet)	45	10	10	15	25	25	35	15	35
<b>Front Yard Setback</b> (feet)	25	5	10	10	10	0	5	10	0
<b>Side Yard Setback</b> (feet)	10	10	10	10	5	0	5	5	0
<b>ATTACHED SIGNS</b>									
<b>Maximum Size*</b> (Sq. feet)	100	32*	32*	75	100	100	150	150	200
<b>% of Street Facade</b>	N/A	N/A	N/A	20%	20%	20%	25%	25%	25%

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

Table 10-4 (Amended by Ord. 07-13; 11-5-07)

**Note 1:** In addition to its total permitted sign area, each premises 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.

## NONCONFORMING DEVELOPMENT

# 11

## ARTICLE ELEVEN

### NONCONFORMING DEVELOPMENT

#### 11.1101 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 which 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.

#### 11.1102 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.

#### 11.1103 Nonconforming Lots

##### a. Pre-Existing 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 Regulations.

##### 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.

#### 11.1104 Nonconforming Structures

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

##### a. Continuation

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

##### b. Additions or Enlargements to Nonconforming Structures

## NONCONFORMING DEVELOPMENT

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 building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.
  - (c) The addition projects no further into a required side yard setback than the existing building; the length of the side wall of the 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 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.

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 these Regulations shall be subject to Article Eight.

### 11.1105 Nonconforming Uses

a. Continuation of Nonconforming Uses

Any nonconforming use lawfully existing on the effective date of these regulations may continue, subject to the limitations of this Section.

## NONCONFORMING DEVELOPMENT

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 a lawful nonconforming use becomes vacant or unused 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

1. A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to 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.

# 12

## ARTICLE TWELVE

### ADMINISTRATION AND PROCEDURES

#### 11.1201 Purpose

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

#### 11.1202 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 Waverly 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 Zoning Administrator, or his/her designee 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, 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. Any facility with a parking lot with more than 20 spaces.
3. Education, Public Assembly, and Religious Assembly use types.
4. All commercial use types listed in Table 4-2.
5. Any use including drive-in services.
6. Any industrial use adjacent to a residential zoning district.

##### 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.

## ADMINISTRATION AND PROCEDURES

3. A description of the nature and operating characteristics of the proposed use.
4. A site 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, size, 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, or his/her designee.

e. Administrative Action and Appeal

The Zoning Administrator, or his/her designee must act upon each complete application within ten 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 Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in these Zoning Regulations.
2. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), 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 Regulations.

g. Modification of Site Plan

The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), 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

## ADMINISTRATION AND PROCEDURES

circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

### 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 Zoning Administrator, or his/her designee, 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 Zoning Administrator, or his/her designee may revoke a Site Plan Approval if he/she determines 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.

## 11.1203 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 Zoning Administrator shall be responsible for the administration of the Special Use Permit Procedure. The Planning Commission shall review, evaluate, and act on each application. An applicant may appeal a denial of any application pursuant to this section to the City Council. In addition, a valid protest petition, meeting the requirements set forth in Section 11.1204d3 of these Regulations shall also initiate an appeal to the City Council.

### c. Application Requirements

An application for a Special Use Permit may be filed with the Zoning Administrator by the owner(s) of a property or the owners' authorized agent. 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, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

## ADMINISTRATION AND PROCEDURES

### d. Approval Process

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

### e. 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 11.1204d3 of these Regulations, within ten days of the action.

3. The City Council, after publication and public hearing, shall act on the appeal.

### f. Criteria for Review

1. The Planning Commission and the City Council shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in these Zoning Regulations.

### g. Scope of Approval

1. The Planning Commission and/or City Council, in cases of appeal, may, at their discretion, apply a Special Use Permit to a specific owner or applicant. The approving agencies may establish special site development or operational regulations as a condition for approval of a Special Use Permit.

2. The Planning Commission or City Council, in cases of appeal, shall not grant a Special Use Permit for any home occupation/homebased business which is otherwise prohibited under Section 611 of these Regulations.

### h. 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.

### i. Previously Approved Permits

Any special use approved under regulations in effect before the effective date of these Regulations shall be considered to have a valid Special Use Permit, subject to requirements imposed at the time of its approval.

**ADMINISTRATION AND PROCEDURES**

**Table 12-1: Criteria For Site Plan Review And Special Use Permits**

Land Use Compatibility	CRITERIA	APPLIES TO	
		Site Plan Review	Special Use Permit
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
<b>Height and Scale</b>			
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 of possible. higher coverage should be mitigated by landscaping or site amenities.	X	X
<b>Site Development</b>			
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 drainageways should be preserved.	X	X
<b>Building Design</b>	Architectural design and building materials should be compatible with surrounding areas or highly visible locations		X
<b>Operating Characteristics</b>			
Traffic Capacity	Project should not obstruct traffic 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

**ADMINISTRATION AND PROCEDURES**

**Table 12-1: Criteria For Site Plan Review And Special Use Permits**

		APPLIES TO	
		Site Plan Review	Special Use Permit
<b>Operating Characteristics</b>	<b>CRITERIA</b>		
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
<hr/>			
<b>Public Facilities</b>			
Sanitary Waste Disposal	Developments must connect to the sewer system (see Article 6-3, Sanitary Sewers, page 41 for distance requirements). Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
	Sanitary sewer must have adequate capacity to serve development.	X	X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	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
	Rural estate subdivisions should be located in designated areas which can accommodate utility and infrastructure installation consistent with the need to protect the environment and public health.	X	X
	Project must not compromise or affect a wellhead protection area.	X	X
Water	Developments must connect to the water system (see Article 6-2, Water, page 39 for distance requirements). Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
	The water supply system must have adequate capacity to serve development.	X	X
<hr/>			
<b>Comprehensive Plan</b>	Projects should be consistent with the City of Waverly's Comprehensive Development Plan.		X

## ADMINISTRATION AND PROCEDURES

### 11.1204 Amendment Procedure

#### a. Purpose

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Regulations (text amendment) and/ or the official boundaries of zoning districts (rezoning).

#### b. Initiation of Amendments

1. Text amendments may be initiated by the Planning Commission or City Council.
2. Rezoning may be initiated by a property owner or authorized agent; the Planning Commission; or the City Council.

#### c. Rezoning Application Requirements

An application for a rezoning may be filed with the Zoning Administrator, or his/her designee. 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, other drawings, or other materials determined by the Zoning Administrator to be 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 text or rezoning and, following such public hearing, shall recommend action to the City Council. A vote either for or against an amendment by a majority of all Planning Commission members shall constitute a recommendation to the City Council. A vote either for or against an amendment by less than a majority of all Planning Commission members shall constitute a failure to make a recommendation 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.

## ADMINISTRATION AND PROCEDURES

b) Notarized signatures by at least one of the following:

- 1) The owner or owners of at least 20% of the property proposed for rezoning.
- 2) 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 these regulations by the governing body, notice of public hearings shall be provided by two of the three following methods, as determined by the City:

1. Notice By Posted Sign: 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 Waverly 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 hearing. In addition, the City of Waverly shall provide for the following:
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.

### 11.1205 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 Waverly and the present use of the land.

## ADMINISTRATION AND PROCEDURES

### 11.1206 Building Permits and Certificates of Zoning Compliance

#### a. Administration and Enforcement

The Zoning Administrator shall administer and enforce these regulations. The City Council may direct other persons to assist him/her.

If the Zoning Administrator, or his/her designee shall find that any of the provisions of these regulations 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 structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.

#### b. Building Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of these regulations, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by these regulations.

#### c. Application for Building Permit

All applications for building permits shall include plans if applicable in duplicate 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 administrative official, 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 these regulations. One copy of the plans shall be returned to the applicant by the administrative official, after he/ she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.

#### 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 shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of these regulations.

#### 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; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected.

## ADMINISTRATION AND PROCEDURES

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 canceled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled 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 a period longer than two years if established at the time that such permit is issued by the City. The Zoning Administrator, or his/her designee 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 administrative official 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 these regulations, and punishable as provided by Section hereof.

### 11.1207 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 these regulations.

The schedule of fees shall be posted in the office of the administrative official, 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.

### 11.1208 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 the unexpired term of any member whose term 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

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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 by publication in a newspaper of general circulation in the City of Waverly; by written notice to the appealing party, and may be posted in a conspicuous place on or near the property on which the application has been made.

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.

### 11.1209 Powers and Duties of the Board Of Adjustment

The Board of Adjustment shall have only 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, or his/her designee in the enforcement of these regulations or any regulation relating to the location or soundness of structures

b. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

c. Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it finds that:

(a) Strict application of the zoning regulations will produce undue hardship.

(b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

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(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.

(f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 1209c(l) have been met by the applicant for a variance.

3. Conditions for Grant of Variance.

(a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. 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 these regulations and punishable under Section 1214 of these regulations.

(b) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

(c) 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.

d. Board has Powers of Zoning Administrator on Appeals: Reversing Decisions of Zoning Administrator

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of these regulations, 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 administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variation in the application of these regulations.

### 11.1210 Appeals from the Board of Adjustment.

Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city 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 1991), and amendments thereto.

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### 11.1211 Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal.

- a. It is the intent of these regulations 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 these regulations the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of these regulations as provided by law, (2) of establishing a schedule of fees and charges as stated in Section 12 of these regulations, and (3) of directing a city officer to appeal a decision of the Board of Adjustment.

### 11.1212 Severability Clause.

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### 11.1213 Complaints Regarding Violations.

Whenever a violation of this resolution 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 resolution.

### 11.1214 Penalties for Violation. *(Amended by Ord. 07-03; 4-2-07)*

- a. Any person, firm, corporation violating any provision of the Zoning Regulations of the City of Waverly, Nebraska, shall be deemed guilty of a misdemeanor. Misdemeanors are divided into three (3) classes, which are distinguished from one another by the following penalties, which are authorized upon conviction.

Class I misdemeanor	Maximum: Five hundred dollar (\$500) fine.
	Minimum: One hundred dollar (\$100) fine.

- 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.