



City of Grand Island

Tuesday, May 10, 2011

Council Session

Item F1

#9294 - Consideration of Amendments to Chapter 36 of the Grand Island City Code Relative to Definitions, Yard Requirements, LLR Large Lot Residential Zone, ME Industrial Estates, RD Residential Development and Interpretation of Zoning Regulations

This item relates to the aforementioned Public Hearing Item E-4.

Staff Contact: Chad Nabity

ORDINANCE NO. 9294

An ordinance to amend Chapter 36 of the Grand Island City Code; to add subsections to Section 36-8; to amend Section 36-8, specifically to amend the definition of Building Principal; to amend Section 36-22, pertaining to side yard requirements; to add Section 36-24, pertaining to the interpretation of the zoning regulations; to amend Section 36-71, pertaining to the ME Industrial Estates Zone; and to amend Section 36-78, pertaining to Residential Development Zone; to repeal Sections 36-8; 36-22; 36-24; 36-71; and 36-78 as now existing, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

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

SECTION 1. Section 36-8 of the Grand Island City Code is hereby amended to read as follows:

§36-8 Definitions

(A)

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

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

Access or Access Way shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this chapter.

Accessory Building (see Building, accessory)

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

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

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

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

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

Adult Cabaret shall mean cabaret that features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

Adult Companionship Establishment shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a

Approved as to Form _____
May 5, 2011 City Attorney

ORDINANCE NO. 9294 (Cont.)

customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

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

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

Adult Massage Parlor, Health Club shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

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

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

Adult Motion Picture Theaters shall mean a business within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult Novelty Business shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.

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

Aesthetic Zoning shall mean zoning to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.

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

Agricultural Operations (see "Farming")

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

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

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

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

ORDINANCE NO. 9294 (Cont.)

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

Alteration, Structural (see Structural alteration)

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

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

Amusement Park shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

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

Animals, Domestic (see Household pet)

Animal Unit (see Livestock Feeding Operation)

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

Antenna see definition in §36-169 of this chapter.

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

Apartment shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)

Apartment House (see Dwelling, multiple family)

Appearance shall mean the outward aspect visible to the public.

Appropriate shall mean the sympathetic, or fitting, to the context of the site and the whole community.

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

Architectural Character see Architectural Concept

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

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

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

(B) **Mass** shall pertain to the volume, bulk of a building or structure.

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

Architectural style shall mean the characteristic form and detail, as of buildings of a particular historic period.

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

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

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

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

Automatic Teller Machine (ATM) shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

Automobile Wrecking Yard see Salvage Yard as defined herein.

(B)

ORDINANCE NO. 9294 (Cont.)

Ballroom shall mean a place or hall used for dancing, other than those listed under the definition of “Adult Cabaret”. Ballrooms may also be used for reunions, weddings and receptions.

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

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

Bed and Breakfast Inn shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.

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

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

Best Interests of Community shall mean interests of the community at large and not interest of the immediate neighborhood.

Billboard shall mean an outdoor advertisement sign which directs attention to a business commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

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

Block Frontage shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.

Board of Adjustment shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

Boarding or Rooming House shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.

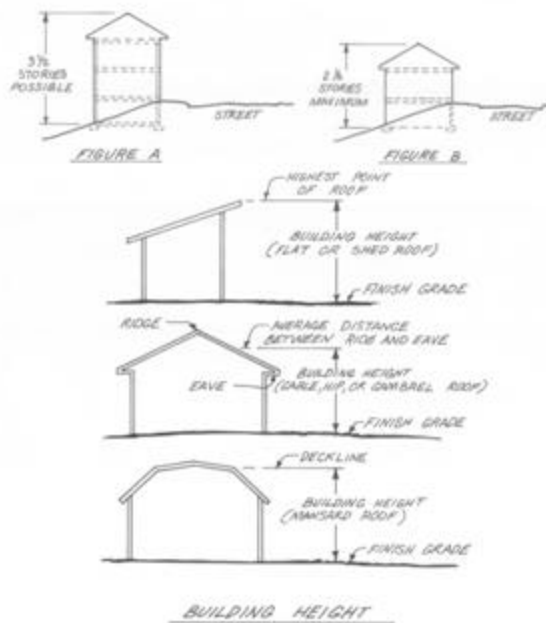
Brew-on Premises Store shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

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

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

(A) **Brewery, Craft** shall mean a brew pub or a micro brewery.

(B) **Brewery, Micro** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.



ORDINANCE NO. 9294 (Cont.)

Broadcasting Tower shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding one hundred (100) feet in height shall not be considered broadcast towers.

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

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

Building shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Operable and licensed trailers, with wheels, shall not be considered as buildings.

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

Building Area of shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

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

Building Height shall mean the vertical distance measured from the centerline of the improved street to the highest point of a roof surface, if a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

Building Inspector shall mean the building inspectors for the City of Grand Island, Nebraska.

Building Principal shall mean a building within which the main or primary use of the lot or premises is located and which is supplied with the main electric and/or sewer utility connections. (Also, see Use, Principal.)

Building Setback Line shall mean the minimum of distance as prescribed by this chapter between any property line and the closed point of the building wall line or face of any building or structure related thereto.

(C)

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

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

Car Wash, Industrial shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

Carport shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

Cellar shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

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

Channel shall mean the geographical area within either the natural or artificial banks of a watercourse or drainageway.

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

Child Care Center shall mean a facility licensed to provide child care for thirteen (13) or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

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

City shall mean the City of Grand Island, Nebraska.

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

ORDINANCE NO. 9294 (Cont.)

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

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

Code shall mean the Grand Island City Code.

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

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

Commercial Feeding Operation (See Livestock Feeding Operation)

Commission shall mean the Hall County Regional Planning Commission.

Common Area or Property shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a Planned Development or condominium development.

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

Community Sanitary Sewer System shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

Community Water Supply System shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.

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

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

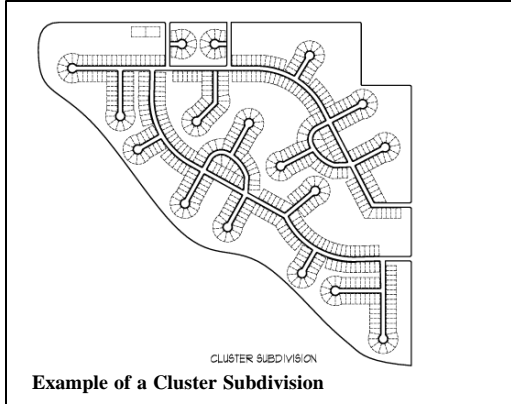
Comprehensive Development Plan shall mean the Comprehensive Development Plan of Grand Island, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in state statutes.

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

Conditional Use Permit shall mean a permit issued by the City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.

Condominium shall be as defined in state statutes, whereby four or more apartments are separately offered for sale.

Confinement shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without



ORDINANCE NO. 9294 (Cont.)

bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.

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

Congregate Care Facility shall mean a long-term care facility exclusively for persons 60 years of age or older, and which shall include, without limitation, common dining, social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doorways designed for residents including: meal services, transportation, housekeeping, linen, and organized social activities.

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

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

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

Conservation Easement shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses or preserving the ability said land to be used for specific purposes such as on site wastewater treatment systems.

Convenience Store shall mean a one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also, see self-service Station.)

Contiguous shall mean the same as "Abut".

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

Country Club shall mean a land area and buildings containing golf courses, riding arenas, fishing or hunting facilities and/or similar facilities, a clubhouse, and customary accessory uses, open only to members and their guests.

Court shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on three (3) or more sides by such buildings.

Cul-de-Sac shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

Curve Lot see "Lot, Curve".

(D)

Dairy Farm shall mean any place or premises upon which milk is produced for sale or other distribution.

Density shall mean the number of dwelling units per acre of land allowable on a given tract or parcel of land.

Detention Cell shall mean a facility for the temporary storage of stormwater runoff.

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

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

Development Concept Plan (See Site Plan.)

Development Review shall mean the review, by the city of subdivision plats, site plans, rezoning requests, or permit review.

District shall mean any defined area within the jurisdiction of the governmental entity that is designed to allow specific uses and structures as defined in the corresponding textual portion of the regulation.

Dog Kennel (See Kennel, commercial; and Kennel, private.)

ORDINANCE NO. 9294 (Cont.)

Domestic Animals (See Household Pet.)

Downzoning shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a higher density to a lower density residential district.

Drive-In Facility shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

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

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

Duplex shall mean the same as "Dwelling, Two (2) Family".

Dwelling Any building or portion thereof which is designed and used exclusively for single family residential purposes.

Dwelling, Farmstead shall mean any single family dwelling unit / residence associated with a farming operation either on a separate tract of land or located as a part of the larger operation area.

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

Dwelling, Modular (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto.

Dwelling, Multiple shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

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

Dwelling, Single Family is a building having accommodations for or occupied exclusively by one family which meet all the following standards:

- (A) The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
- (B) The home shall have no less than an eighteen (18) foot exterior width;
- (C) The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- (D) The exterior material is of a color, material and scale comparable with those existing in residential site built, single family construction;
- (E) The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or is a standing seam residential grade steel material, or rock;
- (F) The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- (G) The home shall meet and maintain the same standards that are uniformly applied to all single family dwellings in the zoning district.
- (H) Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete, laid masonry block, brick or all-weather wood foundation on a footing to be placed a minimum of thirty-six (36) inches below the final ground level.

Dwelling, Single-Family (Attached) shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an unpierced common wall through the structure that also sits along the property line separating ownership of the structure.

Dwelling, Two (2) Family shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

Dwelling Unit One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any

ORDINANCE NO. 9294 (Cont.)

other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

(E)

Easement shall mean a right to use a parcel of land, granted to the general public, utility, corporation or person(s) for a specific purpose or purposes.

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

Eleemosynary Institution shall mean any building or group of buildings devoted to and supported by charity.

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

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

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

Erected shall mean constructed upon or moved onto a site.

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

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

Exterior building component shall mean an essential and visible part of the exterior of a building.

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

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

(F)

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

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

Family shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.

Family Child Care Home I shall mean a child care operation in the provider's place of residence which serves between four (4) and eight (8) children at any one time. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirements of the State of Nebraska.

Family Child Care Home II shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirements of the State of Nebraska.

Farm shall mean an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as

ORDINANCE NO. 9294 (Cont.)

hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

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

Farmstead In contrast to a farmstead dwelling, a tract of land of not less than 1 acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed as of August 1, 2004, and was used for single-family resident purposes.

Feed Lot shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals.

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

(A) **Fence, Open** shall mean a fence, including gates, which has, for each one foot (1') wide segment extending over the entire length and height of fence, fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence.

(B) **Fence, Solid** shall mean any fence that does not qualify as an open fence.

Flood see definition in §36-128 of this chapter.

Flood Plain see definition in §36-128 of this chapter.

Floodway see definition in §36-128 of this chapter.

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

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

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

(G)

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

Garage, Public shall mean any garage other than a private garage.

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

Garbage shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

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

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

Grand Island Fee Schedule shall mean the fee schedule adopted and maintained by the City of Grand Island, which establishes the required fees to be collected for various City services.

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

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

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

Ground Cover shall mean plant material used in landscaping which remains less than twelve (12) inches in height at maturity. (Also, see Landscaping.)

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

ORDINANCE NO. 9294 (Cont.)

Group Care Home shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.

Group Home for the Disabled shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "disabled" shall mean having:

- (A) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
- (B) A record of having such an impairment; or
- (C) Being regarded as having such impairment.

Handicap shall not include current, illegal use of or addiction to a controlled substance as defined in state statutes.

Group Housing shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

Guest Room shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

(H)

Half-Story shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.

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

Hard Surfaced shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed and paved with a permanent type, dust-free surface such as asphalt, concrete or paving brick.

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

Hazardous Waste shall mean waste products of industrial or chemical process including finished surplus, used, contaminated, or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material that requires special handling treatment, and disposal methods.

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

Health Recreation Facility shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

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

Height of Building see definition of Building Height herein.

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

Home for the Aged (see Long-Term Care Facility)

Home Improvement Center shall mean a facility engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.

Home Occupation shall mean an "in-home" or "home based" or entrepreneurial business operating from a residential dwelling within the extra-territorial jurisdiction of the City of Grand Island. Home occupations are considered accessory uses to properties in all zoning districts.

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

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

ORDINANCE NO. 9294 (Cont.)

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

Housing for the Elderly shall mean a multi-family structure, controlled by either a public entity, private for profit, institutional body, or non-profit corporation. The facility houses predominantly persons 62 years of age or older.

(J)

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

Incidental Use shall mean a use, which is subordinate to the main use of a premise.

Independent (restricted) Housing shall mean a residential facility limited to persons 62 years of age or over, or disabled persons.

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

Infill Development shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.

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

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

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

Intent and Purpose shall mean that the Commission and Council by the adoption of this Regulation, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.

(I)

Juice Bar (See Adult Establishment.)

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

Junk Yard shall definition of Salvage Yard herein.

(K)

Kennel, Boarding and Training shall mean any lot or premises on which three (3) or more dogs, cats or non-farm/non-domestic or any combination of five (5) or more thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.

Kennel, Commercial shall mean an establishment where three (3) or more dogs, cats, or other household pets, or non-farm/non-domestic or any combination of five (5) or more thereof, at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.

Kennel, Private shall mean the keeping, breeding, raising, showing or training of four or more animals over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.

(L)

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

Land Use Plan shall mean the same as Comprehensive Development Plan.

ORDINANCE NO. 9294 (Cont.)

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

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

Landscaping shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

Large Box Retail shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include: membership wholesale clubs emphasizing in large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point of sale concepts and department stores.

Laundry, Self Service shall mean an establishment that provides hometype washing, drying, and/or ironing facilities for customers on the premises.

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

Light Cut-Off Angle shall mean an angle from vertical, extending downward from a luminaries, which defines the maximum range of incident illumination outward at the ground plane.

Limits of Grading shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

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

Liquid Manure Storage Pits shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production.

Livestock (See Animals, Farm.)

Livestock Feeding Operation (LFO) shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three hundred (300) Animal Units as defined below. The confined area of the livestock feeding operation shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more livestock feeding operations under common ownership are deemed to be a single livestock feeding operation if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:

- One (1) A.U.= One (1) Cow/Calf combination
- One (1) A.U.= One (1) Slaughter, Feeder Cattle;
- One (1) A.U.= One-half (1/2) Horse;
- One (1) A.U.= Seven Tenths (.7) Mature Dairy Cattle;
- One (1) A.U.= Two and One Half (2.5) Swine (55 pounds or more);
- One (1) A.U.= Twenty Five (25) Weaned Pigs (less than 55 pounds);
- One (1) A.U.= Two (2) Sows with Litters;
- One (1) A.U.= Ten (10) Sheep;
- One (1) A.U.= One Hundred (100) Chickens;
- One (1) A.U.= Fifty (50) Turkeys;
- One (1) A.U.= Five (5) Ducks.

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

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

Logic of Design shall mean accepted principles and criteria of validity in the solution of the problem of design.

ORDINANCE NO. 9294 (Cont.)

Long-Term Care Facility shall mean a facility as defined in Title 15, Chapter 3 Nebraska Department of Health and Human Services and Neb. Rev. Stat. Section 71 -2017.01. These facilities include:

- Nursing facilities
- Boarding home
- Adult Care Home
- Assisted Living Facility
- Center for the Developmentally Disabled
- Group Residence
- Swing Bed
- Adult Day Care

Lot shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to April 22, 1968, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one (1) public street or right-of-way.

Lot Area shall mean the total area, on a horizontal plane, within the lot lines of a lot.

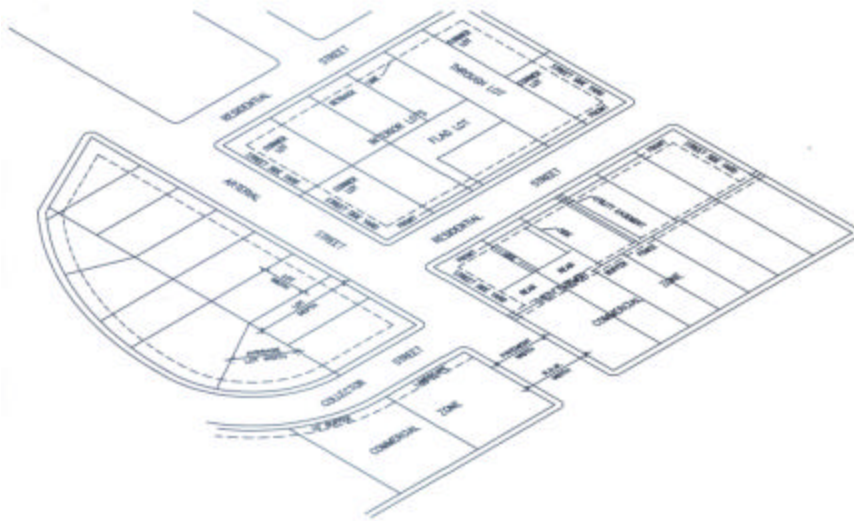
Lot, Corner shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot".

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

Lot, Curve shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of three hundred (300) feet or less.

Lot Depth shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot, Double Frontage shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.



ORDINANCE NO. 9294 (Cont.)

Lot, Flag shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor. The measurement of the actual lot frontage shall be made along the widest portion of the lot along the line parallel to the street.

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

Lot, Key shall mean a lot: (1) abutting the entire length of at least one of its side lot lines, either directly or across an alley, the rear lot line of any other lot; or (2) situated between two such key lots.

Lot, Interior shall mean a lot other than a corner lot.

Lot Line shall mean the property line bounding a lot.

(A) **Lot Line, Front** shall mean the property line abutting a street.

(B) **Lot Line, Rear** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

(C) **Lot Line, Side** shall mean any lot line not a front lot line or rear lot line.

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

Lot Through shall mean a lot having frontage on two (2) dedicated streets, not including a corner lot.

Lot of Record shall mean a lot held in separate ownership as shown on the records of the Hall County Register of Deeds at the time of the passage of a regulation or regulation est ablishing the zoning district in which the lot is located.

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

(M)

Manufactured Home Park shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

Manufactured Home Subdivision shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

Manufacturing shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

Map, Official Zoning shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Grand Island City Council as "The Official Zoning Map of the City of Grand Island, Nebraska."

Massage Establishment shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations.

Massage Parlor (See Adult Massage Parlor.)

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

Mini-Storage or Mini-Warehouse (See SelfService Storage Facility.)

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

ORDINANCE NO. 9294 (Cont.)

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

Mobile Home Park (See Manufactured Home Park.)

Mobile Home Subdivision (See Manufactured Home Subdivision.)

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

Motel (See Hotel.)

Motor Vehicle shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

(N)

Nebraska Revised Reissued Statutes, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

Nightclub shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided, except as defined under Adult Cabaret. (Also, see Bar.)

Non-Agricultural Land shall mean any tract, parcel or lot that is used for any purpose that does not meet the definition of Agriculture in this section.

Non-community Water Supply System shall mean any public water supply system that is not a community water supply system.

Non-Conforming Building shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

Non-Conforming Use shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

Non-Farm Buildings are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year.

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

Nursing Home see Congregate Care Facility

Nursery School see Preschool

(O)

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

Official Map (See Map, Official Zoning District.)

Off-Street Parking Area or Vehicular Use shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

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

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

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

Outlot shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no building permit shall be issued for any private structure. Typically uses are limited within the subdivision agreement and/or plat.

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

ORDINANCE NO. 9294 (Cont.)

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

(P)

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

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

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

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

Parking Area, Private shall mean an area, other than a street, used for the parking of motor vehicles capable of moving under their own power and restricted from general public use.

Parking Area, Public shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

Parking Space, Automobile shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having an area of not less than 180 square feet and no dimension of less than nine (9) feet, plus such additional area as is necessary to afford adequate ingress and egress.

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

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

Permanent Foundation shall mean a base constructed from either poured concrete, laid masonry rock, brick, or all-weather wood and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

Permanent Tree Protection Devices shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.

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

Permitted Use shall mean any land use allowed without condition within a zoning district.

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

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

Planned Unit Development shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

Planning Commission shall mean the Hall County Regional Planning Commission.

Plant Materials shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.

Plat shall mean a map showing the location, boundaries, and legal description of individual properties, including street rights-of-way, public utility easements, etc.

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

Poultry, Commercial Feeding shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.

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

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

Private Well shall mean a well that provides water supply to less than fifteen (15) service connections and regularly serves less than twenty-five (25) individuals.

ORDINANCE NO. 9294 (Cont.)

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

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

Protected Zone shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of this chapter.

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

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

(Q)

(R)

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

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

Recreational Vehicle (RV) shall mean a vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

Recreational Vehicle Pad: a space for parking a recreational vehicle within a campground or other allowed place consisting of no less than 800 square feet with a minimum width of 12 feet. Improvements included within the pad space include 1 hard surfaced improved parking space of not less than 180 square feet (20 x 9 or 18 x 10) and 2 hard surfaced improved parallel tire pads of not less than 2.5 feet by 24 feet.

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

Residence shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.

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

(A) **Restaurant, Drive-In** shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

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

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

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

ORDINANCE NO. 9294 (Cont.)

Retention Cell shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.

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

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

Rezoning Piecemeal shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

Right-of-Way shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

Road shall mean the same as "Street".

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

Road, Public shall mean a public right-of-way reserved or dedicated for street or road traffic. (Also, see right-of-way and Street.)

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

(S)

Salvage Yard shall mean any building, lot, yard or premise used for the collection, processing, salvage, storage, bailing or shipping of junked vehicles, vehicle parts, paper, cardboard, glass, plastic, metals, rags, scrap materials, junk, or material similar to those listed herein.

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

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

School, Day shall mean a preschool or nursery school for children.

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

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

Selective Clearing shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.

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

Self-Service Storage Facility shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

Separate Ownership shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

Service Stations shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light ~~Retail Trade~~ shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

Self-Service Storage Facility shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

Separate Ownership shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

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

ORDINANCE NO. 9294 (Cont.)

Setback Line, Front Yard shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.

Setback Line, Rear Yard or Side Yard shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.

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

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

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

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

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

Sight Triangle is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision. The area and restrictions of the sight triangle are further defined in Chapter 32 of this code.

Sign Base shall mean any decorative, functional element extending upward from grade to the start of the sign.

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

Site Break shall mean a structural or landscape device to interrupt long vistas and create visual interest in a site development.

Site Plan shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

Site, Septic shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

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

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

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

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

Skateboard Ramp shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal. **Sludge** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

Solid Waste shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

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

Specified Sexual Activities shall mean sexual activities prohibited by state law.

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

Standard System shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

ORDINANCE NO. 9294 (Cont.)

State shall mean the State of Nebraska.

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

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

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

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

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

Story, One-Half shall mean the same as "HalfStory".

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

Street, Arterial shall mean a street of considerable continuity connecting various sections of the City, designated as an arterial street on the official street plan of the City.

Street, Collector shall mean a street or highway that is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development as designated in the Comprehensive Development Plan.

Street, Curvilinear shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.

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

Street, Looped shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.

Streets, Major shall mean a street or highway used primarily for fast or high volumetraffic, including expressways, freeways, boulevards, and arterial streets as designated in the Comprehensive Development Plan.

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

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

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

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

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

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

Street Line shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

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

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

Structure, Temporary shall mean a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

ORDINANCE NO. 9294 (Cont.)

Structural Alteration shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, provided that the smallest lot created by the division is less than ten (10) acres in size.

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

(T)

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

Tattoo Parlor / Body Piercing Studio shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.

Tavern (See Bar.)

Temporary Use shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

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

Tower see definition in §36-169 of this chapter.

Townhouse shall mean a one-family dwelling unit, with a private entrance, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

Trailer, Automobile see definition in §22-1 of this code.

Truck Repair shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.

(U)

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

Use shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

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

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

Use, Permitted shall mean any land use allowed without condition within a zoning district.

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

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

Utilitarian Structure shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

Utility Easement shall mean the same as "Easement".

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

Utilities, Overhead or Underground "Local Distribution" System of shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be

ORDINANCE NO. 9294 (Cont.)

applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.

Utilities, Overhead or Underground "Transmission Line, Supply Line, Wholesale Carrier or Trunk Line, Main Feeder Line" shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

Utility Service shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil, wastewater and communications into a building or development.

(V)

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

Vegetation shall mean all plant life; however, for purposes of this chapter it shall be restricted to mean trees, shrubs, and vines.

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

Vehicle, Motor (See Motor Vehicle.)

(W)

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

Warehouse and Distribution shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

Waste Handling System shall mean any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems:

(A) **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.

(B) **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.

(C) **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.

(D) **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.

Wastewater Lagoon (See Lagoon.)

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

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

Wholesale Establishment shall mean an establishment for the on-premises sale of goods primarily to customers engaged in the business of reselling the goods.

Wholesale Trade shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale

ORDINANCE NO. 9294 (Cont.)

establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

(X)
(Y)

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

Yard, Front shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot. On corner lots, the front yard shall always be on the narrow side of the lot.

Yard, Rear shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

Yard, Side shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this chapter, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

(Z)

Zone Lot shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by this chapter.

Zoning Official shall mean the person or persons authorized and empowered by the city to administer and enforce the requirements of this chapter.

Zoning District shall mean the same as "District".

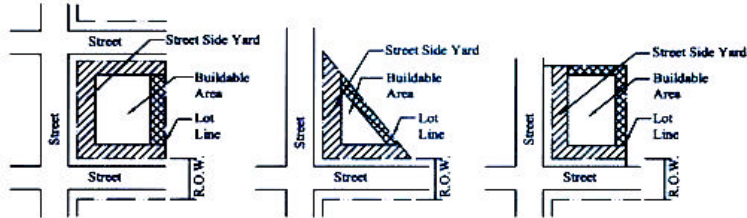
Zoning District, Change of shall mean the legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the Official Zoning Map.

Amended by Ordinance No. 8976, effective 06-08-2005

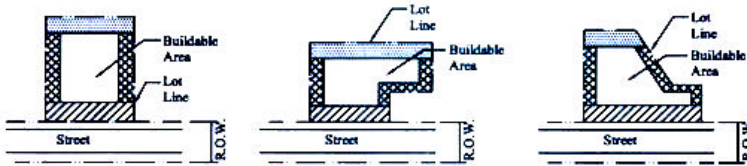
Amended by Ordinance No. 9208, effective 04-08-2009

Amended by Ordinance No. _____, effective 05/25/2011

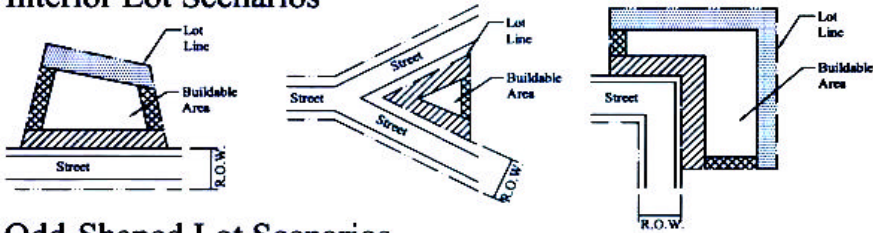
Formatted: Indent: First line: 0.5"



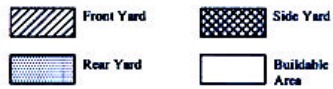
Corner Lot Scenarios



Interior Lot Scenarios



Odd-Shaped Lot Scenarios



ORDINANCE NO. 9294 (Cont.)

SECTION 2. Section 36-8 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. Section 36-22 of the Grand Island City Code is hereby amended to read as follows:

§36-22. Yard Requirements

(A) Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.

(B) All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

(C) Front Yard: There shall be a front yard setback as required herein, provided, that where fifty percent or more of the frontage on one street in any block is built up with buildings, no new building setback shall be less than either the required setback or the setback of any existing building which next exceeds the required setback, whichever is greater. This regulation shall not require a setback of more than 50 feet, and in blocks where the lots have a street frontage of 100 feet or more the regulation shall not require a setback of more than 30 feet.

(D) Side Yard: Any interior side yard may be reduced to zero; provided, that the opposite side yard meets the required interior side yard setback. Where the zero side yard setback is used, the abutting property must be held under the same ownership at the time of initial construction or the owners of the abutting property must be agreeable to the zero setback. A separation of not less than ten (10) feet shall be provided between adjacent structures on abutting sites where the zero side yard setback is utilized. This requirement shall not apply in an RD Zone or where the same interior property line is utilized for zero side yard construction on both properties.

For the purpose of upkeep and repair of structures located on an interior property line, a four (4) foot maintenance easement shall be recorded between the owner of the property containing said structure and the owner of the property upon which entry must take place in order to perform maintenance activities. Such easement shall be an irrevocable covenant and shall run with the land. Proof of said recorded easement shall be submitted to the Building Department prior to issuance of a building permit.

Amended by Ordinance No. 8947, effective 1-5-2005
Amended by Ordinance No. _____, effective 5-25-2011

SECTION 4. Section 36-22 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 5. Section 36-24 of the Grand Island City Code is hereby amended to read as follows:

§36-24. Interpretation of These Regulations

The planning director and chief building official together are hereby authorized and directed to enforce the provisions of this code. The planning director and building official together shall have the authority to render interpretations of this code to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

Amended by Ordinance No. _____, effective 05-25-2011

ORDINANCE NO. 9294 (Cont.)

SECTION 6. Section 36-24 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 7. Section 36-71 of the Grand Island City Code is hereby amended to read as follows:

§36-71. (ME) Industrial Estates Zone

Intent: The intent of this zoning district is to provide for a variety of manufacturing, truck, trailer, and truck/trailer parts retailing, truck, trailer, and truck/trailer parts wholesaling, warehousing, administrative and research uses within an area of comparatively high visibility and having quality standards to promote an industrial park atmosphere.

(A) Permitted Principal Uses: The following principal uses are permitted in the (ME) Industrial Estates Zoning District.

- (1) Any industrial/manufacturing use found in the Zoning Matrix [Attachment A hereto] shall be permitted within this zoning district, provided, such use is in compliance with miscellaneous provisions and performance standards listed in this section, or unless specifically excluded, or a conditional use as listed below.
- (2) Administrative offices for the wholesale distribution of propane when bottles are filled from bulk propane tanks not to exceed 70,000 gallons and when such tanks are installed to provide a source of heat for a building on the lot.

(3) Bus Garaging and Equipment Maintenance, Truck and Trailer Storage, Motor Freight Terminals

(4) Other uses found in Zoning Matrix [Attachment A hereto]

(B) Conditional Uses: The following uses are subject to any conditions listed in this chapter and are subject to other conditions relating to the placement of said use on a specific tract of ground in the (ME) Industrial Estates Zoning District as approved by the City Council.

- (1) Explosives manufacturing
- (2) Towers (radio, television, satellite, etc.)
- (3) Gravel, sand or dirt removal, stockpiling, processing or distribution and batching plant
- (4) Trade and vocational schools
- (5) Other uses found in the Zoning Matrix [Attachment A hereto]

(C) Permitted Accessory Uses:

- (1) Buildings and uses accessory to the permitted principal uses or approved permitted conditional uses.

(D) Specifically Excluded Uses:

- (1) Automotive wrecking or salvage yards
- (2) Billboards
- (3) Churches, schools, institutions and other similar public and semi-public uses except for trade and vocational schools

(4) Concrete or cement products manufacturing and batching plants

(5) Contractor's storage yard or plant

(6) Milling or smelting of ores

(7) Petroleum refining

(8) Residential uses, any

(9) Stock or feed yards and auction houses for livestock

(10) Storage, dump, or yard for the collection, salvage or bailing of scrap paper, bottles, iron, rags, junk, or any other materials

(11) Storage of explosives

(12) Storage tanks or facilities for fuel oils, petroleum, acids, flammable liquids and chemicals

(13) Tanning, curing, or storage of hides or skins

(14) Other uses found in the Zoning Matrix [Attachment A hereto]

(E) Space Limitations:

Formatted: Indent: First line: 0.5"

ORDINANCE NO. 9294 (Cont.)

Uses	Minimum Parcel Area (acres)	Minimum Setbacks					Maximum Ground Coverage	Maximum Building Height (feet)
		A Minimum Lot Width (feet)	B Front Yard (feet)	C Rear Yard (feet)	D Side Yard (feet)	E Street Side Yard (feet)		
Permitted Uses	2.5	250	50	20	20	50	50%	50
Conditional Uses	2.5	250	50	20	20	50	50%	50

Through Lots shall require that the Front Yard Setback be met on both sides adjacent to streets.

(F) Miscellaneous Provisions:

(1) Landscaping shall be provided in the entire area of all required front yards except for necessary paving of walkways and of driveways to reach parking and loading areas in the side or rear yards, provided, that any driveways in the front yard shall not be wider than thirty (30) feet. Landscaping shall include, but is not limited to, screen plantings, lawn area, pools, trees, shrubs, fences, and walls. Crushed rock, gravel, bark chips, etc., shall not substitute for lawn area. ~~Landscaping shall be provided within two years of issuance of the occupancy permit for the principal structure and thereafter be properly maintained.~~

(2) Any outside storage of inoperable or unassembled parts or equipment shall be visually screened from the surrounding area by fences, walls, plantings, earth berm or other barrier and such screening shall be opaque.

(3) No loading facilities shall be located within a required front yard. Loading facilities located between a building and an adjacent street or residential district shall be visually screened to the same standards as any outside storage.

(4) No galvanized or other raw metal sheeting shall be used for the exterior construction of any principal or accessory building.

(5) Supplementary regulations shall be complied with as defined herein.

(6) Only one principal building shall be permitted on one zoning lot except as otherwise provided herein.

Amended by Ordinance No. 9047, effective 6-7-2006
 Amended by Ordinance No. 9154, effective 1-8-2008
 Amended by Ordinance No. _____, effective 5-25-2011

Formatted: Right

SECTION 8. Section 36-71 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 9. Section 36-78 of the Grand Island City Code is hereby amended to read as follows:

§36-78. (RD) Residential Development Zone

(A) Intent : The intent of this zoning district is to permit a more flexible regulation of land use, and so as to more fully implement comprehensive planning for large parcels of land proposed predominantly for residential use.

(B) Boundaries: The boundaries of RD-Residential Development Zone shall be fixed by amendment of the Official Zoning Map at such times in the future as such zoning district is applied to properties within the City's zoning jurisdiction.

(C) Limitations:

(1) In a (RD) Residential Development Zone there shall be provided a minimum size of 1.5 acres.

(2) Any proposed development shall be constructed in accordance with an overall plan of development.

(3) Any proposed plan of development shall be designed as a single architectural scheme with appropriate common landscaping.

(4) Adequate parking space shall be provided for all residential units and for all employee's, visitor's, and user's vehicles, and such parking, loading, or service areas that shall be used for motor vehicles, and shall be located within the boundary lines of the (RD) Residential Development Zone, and shall be physically separated from any public street, right-of-way, or property line by a buffer strip of not less than 30 feet.

(5) No residential building or other permanent residential structure, nor parking lot, shall be located within 30 feet of any public street, right-of-way, or property line.

ORDINANCE NO. 9294 (Cont.)

(6) The maximum ground coverage shall not exceed 30 percent of the property within the (RD) Residential Development Zone.

(7) The minimum off-street parking requirement shall be two parking spaces for every dwelling unit, plus one for each full-time employee.

(8) In the alternative to complying with the 30 foot buffer strip or setback as identified in subsections (4) and (5) above, a ten (10) foot wide landscaped screen compliant with the installation requirements of Section 36-102 shall be followed.

(D) Ownership: A (RD) Residential Development Zone shall require a tract of land which is developed as a unit under single designated control by a common ownership at the time it is certified as an (RD) Residential Development Zone.

(E) Permitted Principal Uses: The following principal uses are permitted in the (RD) Residential Development Zone.

(1) Uses as listed under permitted principal uses of the (TA) Transitional Agricultural Zone, (R-1) Suburban Residential Zone, (R-2) Low Density Residential Zone, (R-3) Medium Density Residential Zone, and (R-4) High Density Residential Zone except as listed under specifically excluded uses.

(2) Nonprofit community buildings and social welfare establishments other than those providing living accommodations.

(3) All other Permitted Principal Uses indicated as permitted within the Zoning Matrix [Attachment A hereto].

(F) Conditional Uses: The following uses are subject to any conditions listed in this chapter and are subject to other conditions relating to the placement of said use on a specific tract of ground in the (RD) Residential Development Zone as approved by City Council.

(1) Towers

(2) Nursing, convalescent & rest home services.

(3) Residential assisted living, retirement or assisted living

(4) All other Conditional Uses indicated as permitted within the Zoning Matrix [Attachment A hereto]

(G) Permitted Accessory Uses:

(1) Buildings and uses accessory to the permitted principal use

(H) Specifically Excluded Uses:

(1) Railway right-of-way, including railway yards or facilities.

(2) Truck, bush, and tree farming.

(3) Boarding and lodging housing, ~~fraternity and sorority houses.~~

(4) Nonprofit community buildings and social welfare establishments providing living accommodations.

(5) Nonresidential uses.

(I) Procedure:

(1) An application to establish a (RD) Residential Development Zone shall be initiated in the manner prescribed in Article X of this chapter.

(2) Said application shall be filed with the city clerk in such form as shall be required by the city council and shall be accompanied by the following information:

(a) Site plan showing preliminary location and dimensions of all building areas, recreation, green or landscaped areas, parking and loading facilities, walkways or malls, screen walls, or plantings, waste disposal areas, illumination facilities, signs, curb cuts, utilities and services, private or dedicated drives or streets, etc.

(b) Preliminary drawings or renderings in sufficient detail so that the character of the development may be determined.

(c) Evidence as to the methods of retaining, maintaining, and protecting the open space, green areas, recreational facilities, etc.

(d) Development schedule as to construction phases of buildings, open space, recreational areas, parking facilities, etc., and estimated completion time.

(e) Evidence of ownership or control of the entire parcel to be used as a planned unit development by a single person, association, firm, etc., as defined herein.

(f) Evidence of economic feasibility. A copy of such application and supplementary information shall then be forwarded by the city clerk to the Planning Commission for review, hearing, and recommendation.

(3) In reviewing the application for amendment herein, the Planning Commission shall determine the following factors.

ORDINANCE NO. 9294 (Cont.)

- (a) That the proposed development will be in the public interest, in harmony with the purpose of this chapter and with comprehensive plans for the City, and will not adversely affect nearby property.
- (b) That adequate, safe, and convenient pedestrian and vehicular trafficways and facilities are provided.
- (c) That the development to be permitted shall be for the purpose of developing an integrated site plan in conformity with the regulations for a (RD) Residential Development Zone.
- (4) The Planning Commission shall hold a public hearing on the proposed amendment and shall transmit its recommendation to the city council. A copy of the recommendation shall be sent to the applicant and one copy shall be retained in the permanent files of the Planning Commission.
- (5) Procedure and action by the city council shall be the same in considering an amendment to the (RD) Residential Development Zone as in Article X of this chapter.
- (J) Miscellaneous Provisions:
 - (1) It is intended that plans required for review and approval must be in a form that will satisfy the requirements of Chapter 33 of this code for both the preliminary and final plat, and that approval for plans and plats be considered simultaneously.
 - (2) The approved and filed final plan and plat shall be the basis for issuance of a building permit in conformity therewith. Plan changes which increase the number of buildings, increase building height or bulk, or change the location of buildings or other features which materially affect the basic design of the development shall require resubmission of the amendment. Minor adjustments in orientation, height or bulk of buildings, or decrease in the number of buildings may be approved by the Planning Director.
 - (3) Should any successful applicant for an amendment hereunder fail to have completed the construction of the footings and foundations for the initial building permit within eighteen (18) months after the city council shall approve a rezoning to a (RD) Residential Development Zone, the area in its entirety shall be reverted to its former zoning classification by appropriate action of the city council, provided, that the city council shall have the power to extend said period by six months in the event of special and unique hardships and circumstances.
 - (4) Control of the development following completion:
 - (a) The chief building official shall issue a certificate certifying the completion of the planned development, and shall note the issuance of the certificate on the final development plan.
 - (b) After the certificate of completion has been issued, the use of land and the construction, modification, or alteration of any buildings or structures within the residential development will be governed by the approved final development plan exclusively.
 - (c) After the certificate of completion has been issued, no changes may be made in the approved final development plan except upon application to the appropriate agency under the procedures provided below.
 - (i) Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Planning Director if they are consistent with the purposes and intent of the final plan. No change authorized by this subsection may increase the density of any building or structure by more than ten percent.
 - (ii) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under subsection (iii) hereof.
 - (iii) All other changes in the final development plan as approved by the city council must be made by the city council under the procedures authorized under Article X of this chapter. No changes may be made in the final development plan unless they are found by the city council to be required for the continued successful functioning of the residential development, or unless they are found by the city council to be required by changes in conditions that have occurred since the final plan was approved or by changes in the comprehensive planning and development policy of the City.

Amended by Ordinance No. 8976, effective 06-08-2005
Amended by Ordinance No. _____, effective 05-25-2011

SECTION 10. Section 36-78 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

ORDINANCE NO. 9294 (Cont.)

SECTION 11. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 12. That this ordinance shall be in force and take effect from and after its passage and publication in pamphlet form within fifteen (15) days according to law.

Enacted: May 10, 2011.

Jay Vavricek, Mayor

Attest:

Shannon Oster, Assistant to the City Administrator