

CITY OF PIERCE
PIERCE COUNTY, NEBRASKA

ZONING ORDINANCE
ORDINANCE No. 583

ADOPTED BY THE CITY OF PIERCE, NEBRASKA
JANUARY 6, 2003

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ARTICLE 1: TITLE AND PURPOSE

Section 1.01 Title

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

Section 1.02 Purpose

This ordinance has been made in accordance with the Pierce Comprehensive Development Plan to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

ARTICLE 2: DEFINITIONS

Section 2.01 Rules

For the purpose of this ordinance the following rules shall apply:

- 2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
- 2.01.03 The word "shall" is mandatory. The word "may" is permissive.
- 2.01.04 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.01.05 The word "commission" shall refer to the Planning Commission of Pierce, Nebraska.
- 2.01.06 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

Section 2.02 Definitions

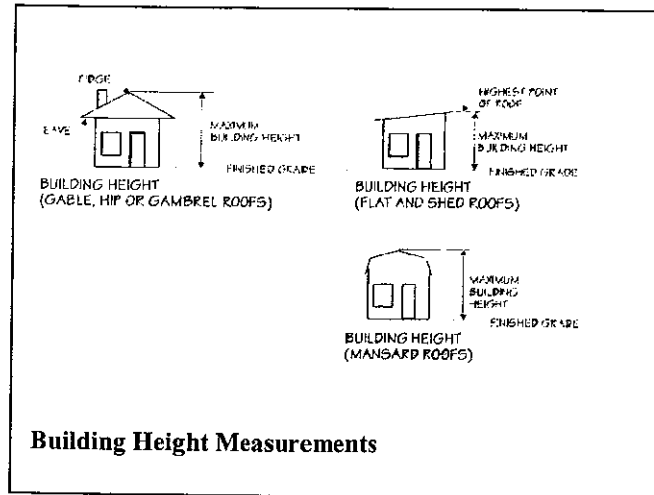
- 2.02.01 ABANDONMENT shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.02.02 ABUT, ABUTTING shall mean to border on, be contiguous with or have common property or district lines, including property separated by an alley
- 2.02.03 ACCESS OR ACCESS WAY shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.02.04 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.
- * 2.02.05 ACCESSORY STRUCTURE shall mean a detached subordinate structure or building located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory structures include farm buildings, garages, carports, and storage sheds.
- 2.02.06 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.
- 2.02.07 ACREAGE shall mean any tract or parcel of land that does not qualify as a farm or development.
- 2.02.08 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".
- 2.02.09 ADULT ESTABLISHMENT shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult companionship establishments, adult motion picture theaters, adult saunas, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

- 2.02.09.01 **ADULT BOOKSTORE** shall mean a bookstore that offers its customers books, movies, or other novelty items characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."
- 2.02.09.02 **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.09.03 **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."
- 2.02.09.04 **ADULT MASSAGE PARLOR, ADULT 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."
- 2.02.09.05 **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than fifty (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.
- 2.02.09.06 **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."
- 2.02.09.07 **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 2.02.09.08 **ADULT NOVELTY BUSINESS** shall mean a business that has as a principal activity the sale of devices that simulate human genitals or devices that are designed for sexual stimulation.
- 2.02.09.09 **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."
- 2.02.10 **ADVERTISING STRUCTURE** shall mean any structure used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.
- 2.02.11 **AGRICULTURAL BUILDINGS** shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, residence of the operator, residence of hired persons, 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.

- 2.02.12 **AGRICULTURE** shall mean the use of land for agricultural purposes, for 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.
- 2.02.13 **ALLEY** shall mean a minor public service street or public thoroughfare twenty feet (20') or less in width, running through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
- 2.02.14 **ALTERATION** shall mean any change, addition or modification to the construction or occupancy of an existing structure.
- 2.02.15 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, or an addition, deletion or change in the district boundaries or classifications upon the Official Zoning Map.
- 2.02.16 **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.
- 2.02.17 **ANIMAL HOSPITAL** shall mean a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.
- 2.02.18 **ANIMAL, DOMESTIC** (see Household Pet).
- 2.02.19 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna and Tower.)
- 2.02.20 **ANTIQUÉ SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old.
- 2.02.21 **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.)
- 2.02.22 **APARTMENT HOUSE** (see Dwelling, Multiple Family)
- 2.02.23 **APPROPRIATE** shall mean fitting the context of the site and the whole community.
- 2.02.24 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.02.25 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items as a principal use.
- 2.02.26 **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 craftsperson, 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.
- 2.02.27 **AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

- 2.02.28 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)
- 2.02.29 **BASE FLOOD** shall mean the flood, from whatever source, having a one percent (1%) chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.
- 2.02.30 **BASE FLOOD ELEVATION** shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent (1%) or greater chance of flooding in any given year.
- 2.02.31 **BASEMENT** shall mean a building space partly or completely underground.
- 2.02.32 **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.
- 2.02.33 **BED AND BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided, and the operator of which shall live on the premises.
- 2.02.34 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
- 2.02.35 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.02.36 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.02.37 **BILLBOARD** (see Sign, Billboard).
- 2.02.38 **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.
- 2.02.39 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.
- 2.02.40 **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 from, interpretations of, and variances to the zoning regulations.
- 2.02.41 **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.
- 2.02.42 **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.
- 2.02.43 **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.
- 2.02.44 **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.

- 2.02.44.01 **BREWERY, CRAFT** shall mean a brew pub or a micro brewery
- 2.02.44.02 **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.
- 2.02.45 **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 fifty feet (50') in height shall not be considered broadcast towers.
- 2.02.46 **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.)
- 2.02.47 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered buildings.
- 2.02.48 **BUILDING AREA** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
- 2.02.49 **BUILDING CODE** shall mean the various codes of the City of Pierce that regulate construction and requires building, electrical, mechanical, plumbing and other permits to do work regulated by the Uniform Building Code, and other codes adopted by the City that pertain to building construction.
- 2.02.50 **BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or the ridgeline of a mansard roof or pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet (5') horizontal distance of the exterior wall of the building.
- 2.02.51 **BUILDING INSPECTOR** shall mean the Building Inspector of the City of Pierce, Nebraska.
- 2.02.52 **BUILDING SETBACK LINE** shall mean the minimum distance, as prescribed by this regulation, between any property line and the closest point of the building line or face of any building or structure related thereto.
- 2.02.53 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles for which the primary purpose is recreational, and having open areas that are natural in character.
- 2.02.54 **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.
- 2.02.55 **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.



- 2.02.56 **CELLAR** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.
- 2.02.57 **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.
- 2.02.58 **CHANNEL** shall mean the geographical area located within either the natural or artificial banks of a watercourse or drainway.
- 2.02.59 **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.
- 2.02.60 **CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
- 2.02.61 **CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.
- 2.02.62 **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.
- 2.02.63 **CITY** shall mean the City of Pierce, Nebraska.
- 2.02.64 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection, which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also, see Sight Triangle.)
- 2.02.65 **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.
- 2.02.66 **CODE** shall mean the Municipal Code of the City of Pierce, Nebraska.
- 2.02.67 **COMMERCIAL FEEDLOT** shall mean a lot or building or combination of lots and buildings intended to be used for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure.
- 2.02.68 **COMMISSION** shall mean the Pierce Planning Commission.
- 2.02.69 **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.
- 2.02.70 **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.
- 2.02.71 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

- 2.02.72 **COMPATIBLE USE** shall mean a land use that is suitable with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be caused 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.
- 2.02.73 **COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Pierce, 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 the Neb. Rev. Stat. §19-903 (R.R.S.1997).
- 2.02.74 **CONDITIONAL USE** shall mean a use conditionally allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
- 2.02.75 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make a conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.
- 2.02.76 **CONDOMINIUM** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1996).
- 2.02.77 **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, and water vapor, or consists of mismatched land uses, density, height, mass, or layout of adjacent uses, or results in a loss of privacy or unsightly views.
- 2.02.78 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons aged fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also see Life Care Facility).
- 2.02.79 **CONSERVATION** shall mean the management of natural resources to prevent waste, destruction, or degradation.
- 2.02.80 **CONSERVATION AREA** shall mean an area of environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in the case of an 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.
- 2.02.81 **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.
- 2.02.82 **CONSTRUCTION AND DEMOLITION (C&D) WASTE SITE** shall mean a disposal site utilized for solid building materials and other wastes associated with construction projects including, but not limited to, such materials as wood, concrete, drywall, masonry, roofing, siding, structural metal, wire, insulation, plastics, styrofoam, twine, baling and strapping materials, empty cans, empty buckets, packaging materials, and empty containers, which employs a method of disposal in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.02.83 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than ~~two~~-three-thousand (3,000 ~~2,000~~) square feet of gross floor area that is designed and stocked to sell primarily food, beverages,

and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.

- 2.02.84 **CONTIGUOUS** shall mean the same as "Abut."
- 2.02.85 **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.
- 2.02.86 **CORPORATE LIMITS** shall mean all land, structures and open space that has been annexed into the City's jurisdiction. This does not include the extraterritorial jurisdiction of the City.
- 2.02.87 **COUNCIL** shall mean the City Council of Pierce, Nebraska.
- 2.02.88 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such building or buildings.
- 2.02.86.01 **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.
- 2.02.86.02 **COURT, OUTER** shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.
- 2.02.89 **CUL-DE-SAC** shall mean a short public way, which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.
- 2.02.90 **CURVE LOT** (See "Lot, Curve.").
- 2.02.91 **DATE OF SUBSTANTIAL COMPLETION** shall mean the date certified by the local building/zoning official when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.
- 2.02.92 **DENSITY** shall mean the number of dwelling units per gross acre of land.
- 2.02.93 **DENTENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.
- 2.02.94 **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.
- 2.02.95 **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.
- 2.02.96 **DEVELOPMENT CONCEPT PLAN** (See Site Plan.).
- 2.02.97 **DEVELOPMENT REVIEW** shall mean the review, by the City, of subdivision plats, site plans, rezoning requests, or permit review.
- 2.02.98 **DISTRICT OR ZONE** shall mean a section or sections of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.
- 2.02.99 **DOG KENNEL** (See Kennel, Commercial; and Kennel, Private).
- 2.02.100 **DOMESTIC ANIMALS** (See Household Pet.).

- 2.02.101 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district, such as from commercial district to residential district or from a multiple family residential district to single family residential district.
- 2.02.102 **DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that when there is doubt as to whether a depression is a watercourse or drainway, it shall be presumed to be a watercourse.
- 2.02.103 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.
- 2.02.104 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.02.105 **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.
- 2.02.106 **DUPLEX** (See Dwelling, Two (2) Family).
- 2.02.107 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for residential purposes, excluding mobile homes.
- 2.02.105.01 **DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing 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.
- 2.02.105.02 **DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
1. *Permanently Attached:* Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
 2. *Permanent Foundation:* Base on which building rests, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two inches (42") below the final ground level.
- 2.02.105.03 **DWELLING, MODULAR** shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (Cum.Supp.2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be a conventional type single-family dwelling, and those that do not meet the above criteria shall be considered a mobile home.

- 2.02.105.04 **DWELLING, MULTIPLE FAMILY** 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.
- 2.02.105.05 **DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.
- 2.02.105.06 **DWELLING, SINGLE FAMILY** shall mean a building having accommodations for or occupied exclusively by one family, which meets all the following standards:
1. The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
 2. The home shall have no less than an eighteen feet (18') exterior width;
 3. The roof shall be pitched with a minimum vertical rise of two and one-half inches (2-1/2") for each twelve inches (12") of horizontal run;
 4. The exterior material shall be of a color, material and scale comparable with existing site-built, single family residences located in Pierce, NE;
 5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, rock, painted tin, or others as requested by the city,
 6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
 7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
 8. The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two inches (42") below the final ground level.
- 2.02.105.07 **DWELLING, SINGLE FAMILY ATTACHED** shall mean a portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.
- 2.02.105.08 **DWELLING, TOWNHOUSE** shall mean a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).
- 2.02.105.09 **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.
- 2.02.106 **DWELLING UNIT** shall mean one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.02.107 **EASEMENT** shall mean a grant made by a property owner to the use of land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

- 2.02.108 **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, and commercial or private trade schools are not included in this definition.
- 2.02.109 **EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.
- 2.02.110 **ENCROACHMENT** shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.
- 2.02.111 **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.
- 2.02.112 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.02.113 **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.
- 2.02.114 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits of the City, in which the State has granted the City the power to exercise zoning jurisdiction and building regulations.
- 2.02.115 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.
- 2.02.116 **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.
- 2.02.117 **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.
- 2.02.118 **FARM** an area containing at least twenty (20) acres or more which is used for growing or storage of the usual farm products such as vegetables, fruit, and grain, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.02.119 **FARMSTEAD** shall mean a tract of land of not less than 2 acres and not more than twenty (20) acres upon which a farm dwelling and other out-buildings and barns and is used for single-family residential purposes.
- 2.02.120 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary above ground.
- 2.02.120.01 **FENCE, OPEN** shall mean a fence, including gates, which has fifty percent (50%) or more of the surface area in open spaces, which affords direct views through the fence.
- 2.02.120.02 **FENCE, SOLID** shall mean any fence, which does not qualify as an open fence.

- 2.02.121 **FLOOD** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any sources.
- 2.02.122 **FLOOD PLAIN** shall mean any land area susceptible to being inundated by water from any source.
- 2.02.123 **FLOOD PROOFING** shall mean any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 2.02.124 **FLOODWAY** shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 2.02.125 **FLOOR AREA** shall mean the square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.
- 2.02.126 **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.
- 2.02.126.01 **FOOD SALES, LIMITED** shall mean food sales establishments occupying ten-thousand (10,000) square feet or less of space.
- 2.02.126.02 **FOOD SALES, GENERAL** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.
- 2.02.127 **FRONTAGE** shall mean that portion of a parcel of property that abuts a dedicated public street or highway.
- 2.02.128 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling.
- 2.02.129 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.02.130 **GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (Also, see Service Station.)
- 2.02.131 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.
- 2.02.132 **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.
- 2.02.133 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In the case of walls that are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 2.02.134 **GREENHOUSE** shall mean a building or premises used for growing plants, preparing floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

- 2.02.135 **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, bridle path, or other similar access-way.
- 2.02.136 **GROUND COVER** shall mean plant material used in landscaping which remains less than twelve inches (12") in height at maturity.
- 2.02.137 **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.
- 2.02.138 **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.
- 2.02.139 **GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.
- 2.02.140 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.
- 2.02.141 **GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.
- 2.02.142 **HALF-STORY** shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three feet (3') above the floor of such story.
- 2.02.143 **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.
- 2.02.144 **HAZARDOUS WASTE** shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.
- 2.02.145 **HEALTH CLUB** shall mean a privately owned facility operated for profit, such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.
- 2.02.146 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.
- 2.02.147 **HOME IMPROVEMENT CENTER** shall mean a facility of more than thirty-thousand (30,000) square feet of gross floor area, engaged in retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.
- 2.02.148 **HOME OCCUPATION** shall mean an "in-home" or "home based" or entrepreneurial business operating from a residential dwelling within Pierce. Home occupations are considered conditional uses to properties in all zoning districts. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a

- Home Occupation Permit. Child Care Homes and Child Care Centers are exempt from Home Occupation Permits except for any signage restrictions.
- 2.02.149 **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.
- 2.02.150 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.
- 2.02.151 **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.
- 2.02.152 **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 compacted sand, rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.
- 2.02.153 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.
- 2.02.154 **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, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.02.155 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominantly built up area.
- 2.02.156 **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.
- 2.02.157 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.02.158 **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.
- 2.02.159 **INTENT AND PURPOSE** shall mean that the Commission and Board 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.
- 2.02.160 **JUICE BAR** (See Adult Establishment.).
- 2.02.161 **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.
- 2.02.162 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor

- vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".
- 2.02.163 **KENNEL, BOARDING, or TRAINING** shall mean any lot or premises on which four (4) or more dogs or cats or any combination thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.
- 2.02.164 **KENNEL, COMMERCIAL** shall mean an establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.
- 2.02.165 **KENNEL, PRIVATE** shall mean any premises used for the keeping of less than four (4) dogs, cats, or a combination thereof, or other non-farm/non-domestic animals by the owner/occupant or occupant of the premises for the purpose of show, hunting, or as pets. The dogs and cats shall belong to the owner/occupant or occupant and their keeping shall be accessory to the main use of the premises.
- 2.02.166 **LAGOON** shall mean a wastewater treatment facility that 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.
- 2.02.167 **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.
- 2.02.168 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- 2.02.169 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.
- 2.02.170 **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.
- 2.02.171 **LAUNDROMAT** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.02.172 **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).
- 2.02.173 **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.
- 2.02.174 **LIVESTOCK FEEDING OPERATION** shall mean the feeding, farrowing, holding, or raising of beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock, in a confined area (buildings, lots, or pens) which is not used for the growing of crops or vegetation but does not include the holding of cattle in calving operations for less than ninety (90) days per year, and where the number of animals so maintained equals or exceeds twenty (20) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFOs under common ownership are deemed to

be a single LFO if they are adjacent (within 1,320 feet) to each other or if they utilize a common area or system for the disposal of livestock wastes. Animal Units (a.u.) are defined as follows:

One a.u.	= (1)	One half (0.5) Horses;
One a.u.	= (1)	Seven-tenths (0.7) Mature Dairy Cattle;
One a.u.	= (1)	One (1) Slaughter, Feeder Cattle;
One a.u.	= (1)	Two (2) Sows with litters;
One a.u.	= (1)	Two and one-half (2.5) Swine (55 pounds or greater);
One a.u.	= (1)	Five (5) Ducks,
One a.u.	= (1)	Ten (10) Sheep;
One a.u.	= (1)	Twenty-five (25) Weaned Pigs (Less than 55 pounds);
One a.u.	= (1)	Fifty (50) Turkeys;
One a.u.	= (1)	One hundred (100) Chickens.

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- 2.02.175 **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.
- 2.02.176 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.
- 2.02.176.01 **LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.
- 2.02.176.02 **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". The setbacks for a front yard shall be met on all abutting streets.
- 2.02.176.03 **LOT, DOUBLE FRONTAGE, or THROUGH** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.
- 2.02.176.04 **LOT, FLAG** shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.
- 2.02.176.05 **LOT, INTERIOR** shall mean a lot other than a corner lot.
- 2.02.176.06 **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 County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.
- 2.02.176.07 **LOT OF RECORD** shall mean a lot or parcel of land, the deed to which has been recorded in the records of the County Registrar of Deeds at the time of the passage of a regulation establishing the zoning district in which the lot is located.
- 2.02.177 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.
- 2.02.178 **LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

- 2.02.179 **LOT FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved 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.
- 2.02.180 **LOT LINE** shall mean the property line bounding a lot.
- 2.02.180.01 **LOT LINE, FRONT** shall mean the property line abutting a street.
- 2.02.180.02 **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.
- 2.02.180.03 **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.02.181 **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.
- 2.02.182 **MANUFACTURED HOME** (See Dwelling, Manufactured Home)
- 2.02.183 **MANUFACTURED or MOBILE HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile housing used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale.
- 2.02.184 **MANUFACTURED or MOBILE HOME SUBDIVISION** shall mean a parcel of land that has been subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured or mobile homes.
- 2.02.185 **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.
- 2.02.186 **MASSAGE PARLOR** shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. (Also, see Adult Uses.)
- 2.02.187 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.
- 2.02.188 **MINI-STORAGE OR MINI-WAREHOUSE** (see Self-Service Storage Facility.)
- 2.02.189 **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, and transformers.
- 2.02.190 **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.

- 2.02.191 **MOBILE HOME** (See Dwelling, Mobile Home)
- 2.02.192 **MOBILE HOME PARK** (See Manufactured or Mobile Home Park.)
- 2.02.193 **MOBILE HOME SUBDIVISION** (See Manufactured or Mobile Home Subdivision.)
- 2.02.194 **MOTEL** (See Hotel.)
- 2.02.195 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheel chairs.
- 2.02.196 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar.)
- 2.02.197 **NON-COMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.
- 2.02.198 **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.
- 2.02.199 **NON-CONFORMING USE** shall mean a use that was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.02.200 **NON-FARM BUILDINGS** shall mean 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.
- 2.02.201 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
- 2.02.202 **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.
- 2.02.203 **NURSING HOMES or CONVALESCENT HOMES** shall mean an institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.
- 2.02.204 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.
- 2.02.205 **OFFICIAL ZONING DISTRICT MAP** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Pierce City Council.
- 2.02.206 **OFF-STREET PARKING AREA** shall mean 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.
- 2.02.207 **OPEN LOT** shall mean a pen or similar concentrated area, 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.

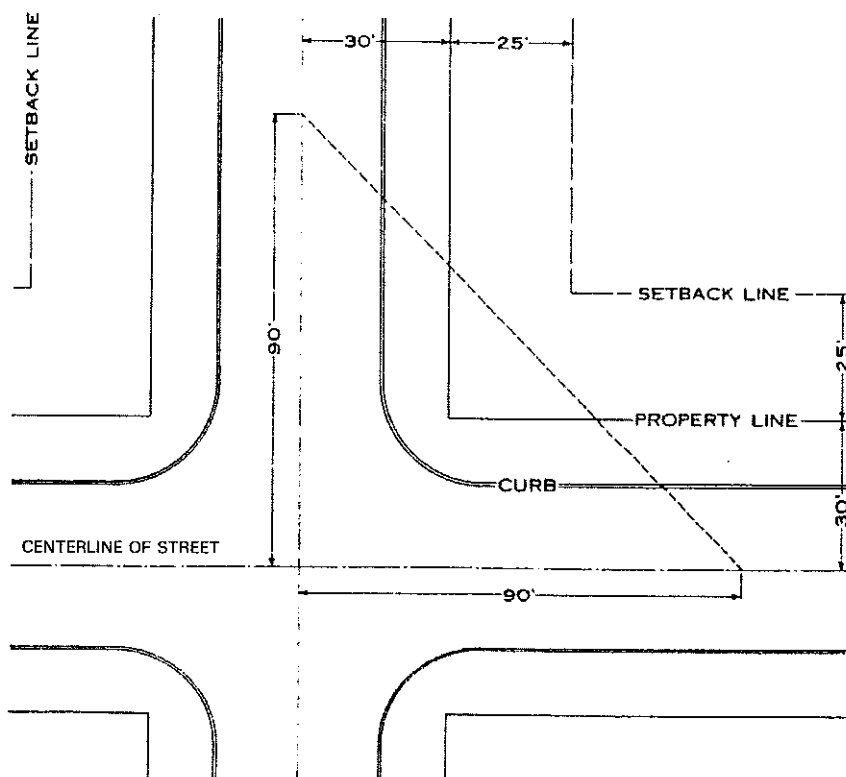
- 2.02.208 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
- 2.02.209 **OPEN SPACE, COMMON** 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.
- 2.02.210 **OUTDOOR ADVERTISING** (see "Advertising Structure" and "Sign").
- 2.02.211 **OVERLAY DISTRICT** shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.02.212 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.02.213 **PAINTBALL COURSE** 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.
- 2.02.214 **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.
- 2.02.215 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.02.216 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
- 2.02.217 **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.
- 2.02.218 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.
- 2.02.219 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.
- 2.02.220 **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.
- 2.02.221 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
- 2.02.222 **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.
- 2.02.223 **PERMANENTLY ATTACHED** 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.

- 2.02.224 **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 Pierce, Nebraska.
- 2.02.225 **PLANNED 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.
- 2.02.226 **PLANNING COMMISSION** shall mean the Planning Commission of Pierce, Nebraska.
- 2.02.227 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs and other such vegetation.
- 2.02.228 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.02.229 **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.
- 2.02.230 **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.
- 2.02.231 **PRINCIPAL STRUCTURE** shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.
- 2.02.232 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.
- 2.02.233 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.
- 2.02.234 **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.
- 2.02.235 **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 (25) individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.02.236 **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.
- 2.02.237 **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, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

- 2.02.238 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than forty-four feet (44') in overall length, eight (8) feet in width, or twelve feet (12') 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.
- 2.02.239 **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.
- 2.02.240 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.
- 2.02.241 **RESTAURANT** shall mean a public eating establishment operated for profit at which the primary function is the preparation and serving of food primarily to persons seated within the building.
- 2.02.241.01 **RESTAURANT, DRIVE-IN** shall mean a restaurant 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.
- 2.02.241.02 **RESTAURANT, ENTERTAINMENT** shall mean a restaurant 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.
- 2.02.241.03 **RESTAURANT, FAST FOOD** shall mean a restaurant 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.
- 2.02.242 **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.
- 2.02.243 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.
- 2.02.244 **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.
- 2.02.245 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.02.246 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.02.247 **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.
- 2.02.248 **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.)

- 2.02.249 **ROAD, PUBLIC** shall mean all public rights-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)
- 2.02.250 **ROOM** shall mean an unsubdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.02.251 **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.
- 2.02.252 **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. Such shall be approved by the Nebraska State Fire Marshall as being in conformance with safety provisions pursuant to 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.
- 2.02.253 **SCREENING** shall mean a structure of planting that conceals from view from public ways the area behind such structure or planting.
- 2.02.254 **SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.
- 2.02.255 **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.
- 2.02.256 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.02.257 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- 2.02.258 **SEPTIC SITE** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.02.259 **SERVICE STATION** 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.
- 2.02.260 **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.
- 2.02.261 **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.
- 2.02.262 **SETBACK LINE MEASUREMENT** shall mean the shortest perpendicular distance between any property line and the face of the building, at grade level.
- 2.02.263 **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.

- 2.02.264 **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.
- 2.02.265 **SHRUB** shall mean a multi-stemmed woody plant other than a tree.
- 2.02.266 **SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.
- 2.02.267 **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 between a height of two and one-half feet (2 ½') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, ninety feet (90') in each direction along the centerline of the streets.



- 2.02.268 **SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:
1. A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed ten (10) square feet.
 2. Signs less than twenty-five (25) square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
 3. Signs less than fifty (50) square feet in area and less than 25 feet in height that are of a public or quasi-public nature, or other official notices that are authorized by the State of Nebraska, City of Pierce, or a Federal Government Agency, as well as any directional, informational, or other official signs or notices authorized by law.

- 2.02.269 **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.
- 2.02.270 **SITE BREAK** shall mean a structural or landscape device used to interrupt long vistas and create visual interest in a site development.
- 2.02.271 **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.
- 2.02.272 **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.
- 2.02.272 **SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for the use with skateboards and in-line skates.
- 2.02.273 **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.
- 2.02.274 **SKATEBOARD or HALF PIPE** shall mean an outdoor structure that is shaped into a half circle or oval, that is designed and principally intended to permit persons on skateboards to move continuously from one side to the other.
- 2.02.275 **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.
- 2.02.276 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.02.277 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.02.278 **SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of:
- 2.02.278.01 Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
- 2.02.278.02 Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 2.02.279 **SPECIFIED SEXUAL ACTIVITIES** shall mean activities consisting of the following:
- 2.02.279.01 Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- 2.02.279.02 Clearly depicted human genitals in the state of sexual stimulation, arousal, tumescence; or
- 2.02.279.03 Use of human or animal ejaculation, sodomy, oral copulation, coitus, masturbation; or
- 2.02.279.04 Fondling or touching of nude human genitals, pubic region, buttocks, female breast(s); or

- 2.02.279.05 Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or
- 2.02.279.06 Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- 2.02.279.07 Human excretion, urination, menstruation, vaginal, or anal irrigation.
- 2.02.280 **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.
- 2.02.281 **STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
- 2.02.282 **STOCKPILING** shall mean the accumulation or manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.
- 2.02.283 **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.
- 2.02.284 **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.
- 2.02.285 **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.
- 2.02.286 **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.
- 2.02.287 **STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.
- 2.02.288 **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.
- 2.02.289 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.02.290 **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 Regulation.
- 2.02.290.01 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a Village, City, or county with controlled access to abutting property.
- 2.02.290.02 **STREET, COLLECTOR** shall mean a street or highway, which is intended to carry traffic from minor Street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

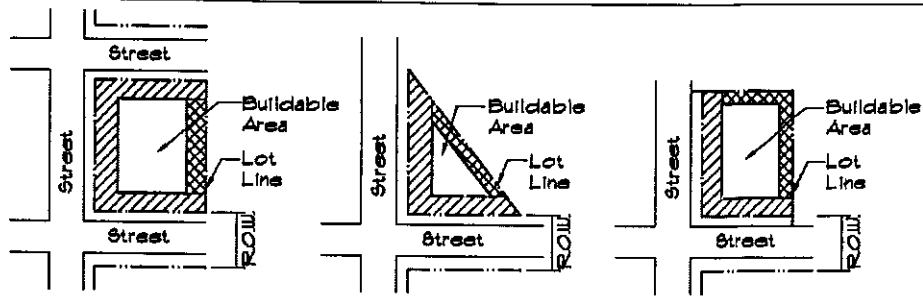
- 2.02.290.03 **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.02.290.04 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
- 2.02.290.05 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.
- 2.02.290.06 **STREET, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.
- 2.02.290.07 **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".
- 2.02.290.08 **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.
- 2.02.291 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.02.292 **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.
- 2.02.293 **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.
- 2.02.294 **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.
- 2.02.295 **STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.
- 2.02.296 **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.
- 2.02.297 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 2.02.298 **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.
- 2.02.299 **SUBDIVISION** shall mean the division of a lot, tract, or parcel of land into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future, provided the smallest lot created by the division is less than ten (10) acres in size.
- 2.02.300 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

- 2.02.301 **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.
- 2.02.302 **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.
- 2.02.303 **TAVERN** (see Bar.)
- 2.02.304 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.02.305 **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.
- 2.02.306 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)
- 2.02.307 **TRACT** shall mean a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.
- 2.02.308 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.02.309 **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.
- 2.02.310 **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.
- 2.02.311 **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.
- 2.02.311.01 **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.
- 2.02.311.02 **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.
- 2.02.311.03 **USE, PERMITTED** shall mean any land use allowed without condition within a zoning district.
- 2.02.311.04 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal.)
- 2.02.311.05 **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.

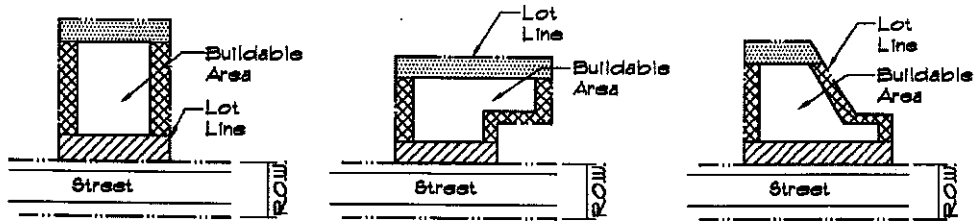
- 2.02.312 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".
- 2.02.313 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.
- 2.02.314 **UTILITY EASEMENT** shall mean the same as "Easement".
- 2.02.315 **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.
- 2.02.316 **UTILITIES, OVERHEAD or UNDERGROUND, "LOCAL DISTRIBUTION SYSTEM"** shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.
- 2.02.317 **UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.
- 2.02.318 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.
- 2.02.319 **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.
- 2.02.320 **VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.
- 2.02.321 **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. (Also, see Motor Vehicle).
- 2.02.322 **VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two (2) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet.
- 2.02.323 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.02.324 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.02.325 **WASTEWATER LAGOON** (See Lagoon.)
- 2.02.326 **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.

- 2.02.327 **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.
- 2.02.327.01 **SALINE WETLAND** shall mean an area that is saturated by salty soils and water at a frequency and duration sufficient to support, and that, under normal circumstances, does not support a prevalence of salt-tolerant vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.02.328 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.
- 2.02.329 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.
- 2.02.330 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation. (see diagram on next page).
- 2.02.330.01 **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.
- 2.02.330.02 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- 2.02.330.03 **YARD, SIDE** shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.
- 2.02.331 **ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the city to administer and enforce the requirements of this chapter.
- 2.02.332 **ZONING DISTRICT** shall mean the same as "District".
- 2.02.333 **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 zone map of the City.

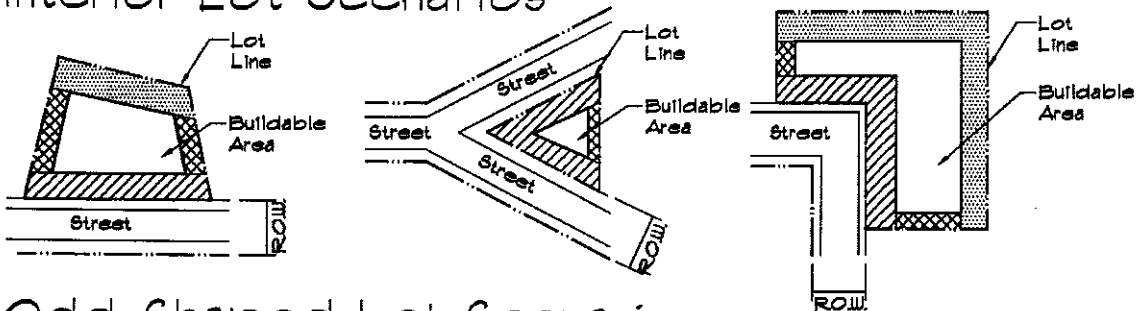
Lot Scenarios



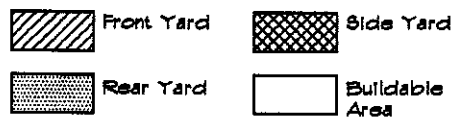
Corner Lot Scenarios



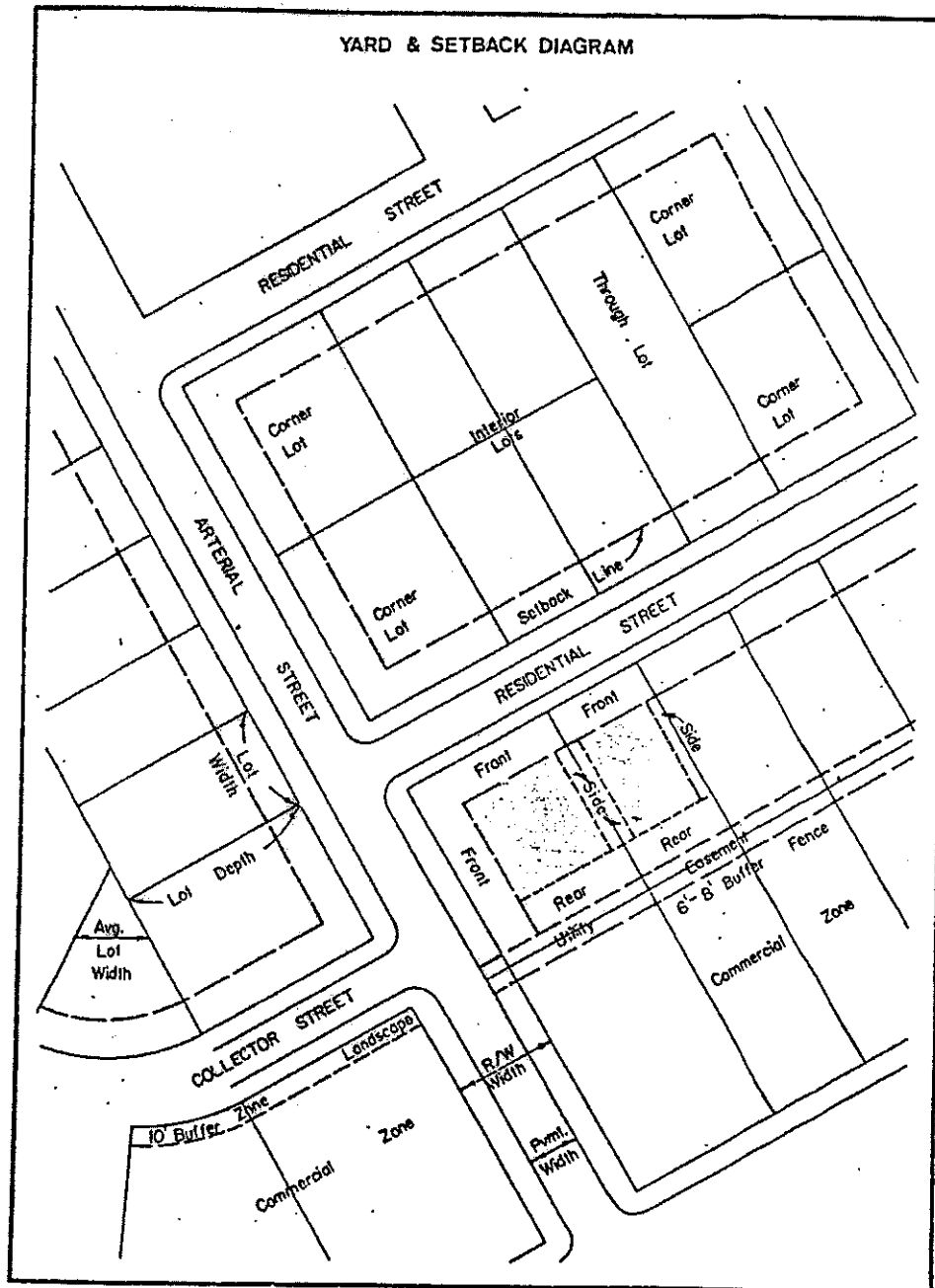
Interior Lot Scenarios



Odd-Shaped Lot Scenarios



Yard and Setback Diagram



ARTICLE 3: DISTRICTS AND OFFICIAL MAP

Section 3.01 Districts

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

3.01.02. The district boundaries are the centerline of either streets or alleys unless otherwise shown.

Section 3.02 Provision for Official Zoning Map

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

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

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

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

ARTICLE 4: GENERAL PROVISIONS**Section 4.01 Planning Commission Recommendations**

Pursuant to Neb. Rev. Stat. §19-901 (R.R.S.1991), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

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

Section 4.02 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one (1) time ten (10) days prior to such hearing.

Section 4.03 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the City of Pierce, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one (1) mile, as established on the map entitled "The Official Zoning Map of the City of Pierce, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

Section 4.05 Zoning Affects Every Building and Use

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

Section 4.06 Lot

- 4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
- 4.06.02 The total percentage of allowable lot coverage shall be addressed in each district. Such percentage shall exclude driveways, sidewalks, and paved patios, but shall specifically include decks.
- 4.06.03 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council.
 - 4.06.02.01 Institutional buildings
 - 4.06.02.02 Public or semi-public buildings
 - 4.06.02.03 Multiple-family dwellings

- 4.06.02.04 Commercial or industrial buildings
- 4.06.02.05 Home for the aged
- 4.06.02.06 Agricultural buildings

Section 4.07 Reductions in Lot Area Prohibited

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.08 Obstructions to Vision at Street Intersections Prohibited

A corner lot, within the area formed by the center line of streets at a distance of ninety feet (90') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2-1/2') and a height of ten feet (8') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

Section 4.09 Yard Requirements

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The City Council may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) more than ~~thirty percent~~ (40%) of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) a minority of such structures have observed or conformed to an average setback line; and 3) all structures not conforming to front yard setbacks must be within one hundred (100) feet of each other.
- 4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five feet (25') and shall contain landscaping and planting suitable to provide effective screening pursuant to Section 7.16.04.
- 4.09.05 Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty feet (40') and shall contain landscaping and planting suitable to provide effective screening pursuant to Section 7.16.04. Included in the increased yard, a solid or semi-solid fence or wall at least six feet (6'), but not more than eight feet (8') high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.
- 4.09.06 No side yards are required where dwelling units are erected above commercial and industrial structures that do not require yards.

Section 4.10 Drainage

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

Section 4.11 Permitted Obstructions in Required Yards

The following shall not be considered to be obstructions when located in the required yards:

- 4.11.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet (4') or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; eaves and roof overhangs projecting 36 inches (36") or less; chimneys projecting twenty-four inches (24") or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen inches (18") into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.11.02 *Front Yards:* Bay windows projecting three feet (3') or less into the yard are permitted.
- 4.11.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.11.04 *Rear Yards:* Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon firetowers, and the ordinary projections of chimneys and flues into the rear yard for a distance of not more than three and a half feet (3 ½') and where the same are so placed as not to obstruct lights and ventilation.
- 4.11.05 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.11.06 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

Section 4.12 Accessory Buildings and Uses

- 4.12.01 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling.
- 4.12.02 Any accessory structure attached to the principal building shall be considered as part of the principal building and shall meet the same requirements as specified for the principal building in said district. An accessory building attached to the principal building shall share a wall that is equal to ten percent (10%) of the distance of the side of the principal building to which the accessory building is attached or six (6), whichever is the greater distance, and shall have a doorway within that wall which separates the accessory building from the principal building that shall serve as a passageway between the accessory building and the principal building.
- 4.12.03 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
- 4.12.04 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.12.05 Garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction, including colored metal siding and roofing.
- 4.12.06 Caretakers quarters are permitted in all districts, providing said use is incidental to the principal use.
- 4.12.07 Fire hazardous Accessory Uses – No accessory ~~use~~ ^{structure} shall be located within five feet (6') of a residential dwelling that creates fire hazard or would subject the residential structure to a potential fire, such as fireplace, barbecue ovens, flammable liquid storage, etc.
- 4.12.08 Regulation of accessory uses shall be as follows:

ARTICLE 4: GENERAL PROVISIONS

- 4.12.08.01 Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- 4.12.08.02 Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen feet (15') from street lines.
- 4.12.08.03 Storage of an unlicensed boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard, unless provided in Section 7.13.
- 4.12.08.04 Accessory building (s) shall not consist of a vehicle, trailer, or portions thereof originally designed for travel or use upon a public roadway. Metal storage/shipping containers shall not be an allowable use within any residential district. (Ordinance #725)

Section 4.13 Permitted Modifications of Height Regulations

4.13.01 The height limitations of this Ordinance shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Conveyors
Towers less than 125 ft. in height	Air-Pollution Prevention Devices
Cooling Towers	Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Flag Poles	Tanks

4.13.02 Radio and Television Towers shall be held in height limitations for any zoning district but must not conflict with any airport approach or land zone or with any other regulations.

4.13.03 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five (75') when each required yard line is increased by at least one foot (1') for each one foot (1') of additional building height above the height regulations for the district in which the building is located.

Section 4.14 Occupancy of Basements and Cellars

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

Section 4.15 Non-Conforming, General Intent

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

Section 4.16 Non-Conforming Lots of Record

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

Section 4.17 Non-Conforming Structures

4.17.01 Authority to continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size

requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

4.17.02 *Enlargement, Repair, Alterations:* Any such structure described in Section 4.17.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by special permit unless otherwise approved or as specified in the Residential District.

4.17.03 *Damage or Destruction:* In the event that any structure described in Section 4.17.01 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.17, shall not have a side yard of less than five feet (5'). When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

*

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

Section 4.18 Nonconforming Uses

4.18.01 *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

4.18.01.01 No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

4.18.01.02 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

4.18.01.03 If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

4.18.02 *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

4.18.02.01 No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;

4.18.02.02 Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;

4.18.02.03 If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;

- 4.18.02.04 Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
- 4.18.02.05 When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
- 4.18.02.06 Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

Section 4.19 Repairs and Maintenance

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

Section 4.20 Uses Permitted by Conditional Use Permit not Nonconforming Uses

Any use for which a conditional use permit is issued according to the provisions of this ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

Section 4.21 Fees

All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be adopted by the City Council by separate ordinance.

ARTICLE 5: ZONING DISTRICTS**Section 5.01 Districts; Use**

For the purpose of this Chapter, the Municipality is hereby divided into ten (10) districts, designated as follows:

5.05	District (TA);	Transitional Agricultural
5.06	District (LDR-1);	Low Density Residential
5.07	District (LDR-2);	Low Density Residential
5.08	District (MDR-1);	Medium Density Residential
5.09	District (HDR-1);	High Density Residential
5.10	District (R-M);	Mobile Home Residential
5.11	District (C-1);	Downtown Commercial
5.12	District (C-2);	General Commercial
5.13	District (C-3);	Highway Commercial
5.14	District (I-1);	Limited Industrial

Section 5.02 Districts; Boundaries

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Pierce, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map. Neb. Rev. Stat. §19-904 (R.R.S.1997).

Section 5.03 Rules for Interpretation of District Boundaries

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

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

portion of the lot, not to exceed fifty (50) feet beyond the district line, into the remaining portion of the lot.

Section 5.04 Annexation and Conformance with the Land Use Plan

Areas annexed into the corporate limits of Pierce shall be zoned to conform to the Land Use Plan.

Section 5.05 TA - Transitional Agriculture District

5.06.01. *Intent:* The (TA) Transitional Agriculture District is established for the purpose of preserving agricultural resources while encouraging uses that are compatible to urban type uses. It is not intended for commercial feedlot operations for livestock or poultry.

5.06.02 *Permitted Uses:*

1. Farming, pasturing, truck gardening, and orchards, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than nineteen (300) animal units shall be established.
2. Residential dwellings for use by the owners and their families, tenants, and employees.
3. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
4. Railroads, not including switching, terminal facilities or freight yards.
5. Public overhead and underground local distribution utilities.
6. Churches.
7. Public services such as police, fire, and emergency facilities.
8. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries or museums.
9. Roadside stands offering the sale of agriculture products produced on the premises.

5.05.03 *Permitted Conditional Uses:*

- 1 Commercial auction yards and barns.
- 2 Commercial production and husbandry of livestock, poultry, fish and small animals.
- 3 Retail sale and distribution of agricultural products that have been produced on the premises.
- 4 Commercial feedlots.
- 5 Feed mills.
- 6 Mining and extraction of natural resources.
- 7 Commercial greenhouses.
- 8 Agricultural storage facilities for equipment and grain.
- 9 Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
- 10 Hospitals, nursing and convalescent homes.
- 11 Radio, television and wireless communication towers and transmitters, pursuant to Section 7.11.
- 12 Cemeteries, provided all structures are located at least one hundred feet (100') from all property lines.
- 13 Water supply and storage facilities, wastewater treatment, sewage disposal, and solid waste disposal facilities.
- 14 Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
- 15 Home occupations, pursuant to Section 7.10.
- 16 Veterinarians' offices and hospitals, and boarding kennels, provided that no structure or building used to house horses or other animals is located closer than one-hundred feet (100') to any residential use.
- 17 Livestock feeding operations, and the raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations, provided no such facility shall have more than three-hundred (300) animal units. **300**
- 18 Wind energy systems on tracts of more than ten (10) acres, pursuant to Section 7.17.
- 19 Public campgrounds.
- 20 Kennels and stables, and riding clubs, provided that no structure or building used to house horses or other animals, provided that no structure or building used to house horses or other animals is located closer than one-hundred feet (100') to any residential use.
- 21 Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
- 22 Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
- 23 Bed and Breakfast establishments.

24 *Self - Storage units*

5.05.04 Permitted Accessory Uses:

- 1 Buildings and uses customarily incidental to the permitted and conditional uses.
- 2 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 3 Signs pursuant to Sections 7.06 through 7.09.
- 4 Parking pursuant to Sections 7.01 through 7.05.
- 5 Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
- 6 Storage or parking of vehicles, boats, campers and trailer, pursuant to Section 7.13.

5.05.05 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Residential Dwelling (private well and/or private septic)	2 1/2 acres	300 feet	*	**	***	35 feet
Residential Dwelling (public water and public sewer)	10,000 sq. ft.	100 feet	*	**	***	35 feet
Other Permitted Uses	3 acres	660 feet	*	**	***	35 feet
Permitted Conditional Uses	20 acres	660 feet	*	**	***	35 feet
Accessory Buildings	-	-	*	**	***	35 feet

- * Front yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road.
- ** Side yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, and shall be seven feet (7') from interior property lines.
- *** Rear yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, and shall be twenty-five feet from interior property lines.

5.06.06 Other Applicable Provisions:

- 1 The following uses shall be located a minimum of one-thousand three-hundred twenty feet (1,320') from any adjacent residential, commercial, industrial, or public use, as measured from the nearest point on the lot line.
 - a. Commercial auction yards or barns.
 - b. Commercial production and husbandry of poultry, fish, and small animals.
 - c. Commercial feedlots.
 - d. Mining and extraction of natural resources.
 - e. Feed mills.
 - f. Veterinarians' offices and hospitals, and boarding kennels, applicable only to any structure or building used to house horses or other animals.
 - g. Raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
 - h. Kennels, stables, and riding clubs, applicable only to any structure or building used to house horses or other animals.
 - i. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
 - j. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
- 2 No new residential, commercial, industrial, or public use shall be located nearer than one-thousand three-hundred twenty feet (1,320') to any existing use listed in Section 5.06.06 (1)

Section 5.06 LDR-1 Low Density Residential District

5.07.01 *Intent:* The (LDR-1) Low Density Residential District is intended to permit low-density residential developments in the outlying areas of Pierce's Jurisdiction to accommodate single-family residential and compatible uses.

5.07.02 *Permitted Uses:*

- 1 Single family dwellings.
- 2 Public and private schools.
- 3 Churches, temples, seminaries, convents, including residences for teachers and pastors.
- 4 Funeral homes and mortuaries.
- 5 Public service facilities.
- 6 Publicly owned and operated services such as: Community Centers, Libraries, Auditoriums, or Museums.

5.07.03. *Permitted Conditional Uses:*

- 1 Child Care Center and Child Care Home.
- 2 Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
- 3 Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
- 4 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 5 Home Occupations, pursuant to Section 7.10.
- 6 Bed and Breakfast establishments.

5.06.04 *Accessory Uses:*

- 1 Buildings and uses customarily incidental to the permitted uses.
- 2 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 3 Parking for permitted uses pursuant to Sections 7.01 through 7.05.
- 4 Signs pursuant to Sections 7.06 through 7.09.
- 5 Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
- 6 Landscaping pursuant to Section 7.16.

5.06.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Single Family Dwelling	2 1/2 Acres*	70 feet	25 feet	6 feet	10 feet	35 feet
Other Permitted Uses	2 1/2 Acres*	100 feet	25 feet	6 feet	10 feet	35 feet
Permitted Conditional Uses	2 1/2 Acres*	100 feet	25 feet	6 feet	10 feet	35 feet
Accessory Buildings	-	-	25 feet	6 feet	6 feet *	20 feet

* If an alley is located at the rear of the lot the accessory rear yard setback may be reduced to 3 feet.

Section 5.07 LDR-2 Low Density Residential District

5.07.02 *Intent:* The (LDR-2) Low Density Residential District is intended to permit low-density residential developments adjacent to the urban areas of Pierce to accommodate single-family residential and compatible uses.

5.07.02 *Permitted Uses:*

1. Single family dwellings.
2. Public and private schools.
3. Churches, temples, seminaries, convents, including residences for teachers and pastors.
4. Funeral homes and mortuaries.
5. Public service facilities.
6. Publicly owned and operated services such as: Community Centers, Libraries, Auditoriums, or Museums.

5.07.04. *Permitted Conditional Uses:*

1. Two-family dwellings.
2. Child Care Center and Child Care Home.
3. Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
4. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
5. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
6. Home Occupations, pursuant to Section 7.10.
7. Bed and Breakfast establishments.

5.07.04 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
3. Parking for permitted uses pursuant to Sections 7.01 through 7.05.
4. Signs pursuant to Sections 7.06 through 7.09.
5. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
6. Landscaping pursuant to Section 7.16.

5.07.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Single Family Dwelling	8,000 sq.ft.	70 feet	25 Feet	6 feet	10 Feet	35 feet
Other Permitted Uses	10,000 sq.ft.	100 feet	25 Feet	6 feet	10 Feet	35 feet
Permitted Conditional Uses	10,000 sq.ft.	100 feet	25 Feet	6 feet	10 Feet	35 feet
Accessory Buildings	-	-	25 Feet	6 feet	6 Feet *	20 feet 18'

* If an alley is located at the rear of the lot the accessory rear yard setback may be reduced to 3 feet.

Section 5.08 MDR-1 Medium Density Residential District

5.08.01 *Intent:* The (MDR-1) Medium Density Residential District is intended to permit an increased density of residential development to include two-family units, as well as other compatible uses.

5.08.02 *Permitted Uses:*

- 1 Single family dwellings.
- 2 Two-family dwellings
- 3 Public and private schools
- 4 Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 5 Funeral homes and mortuaries.
- 6 Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries
- 7 Public service facilities.

5.09.03. *Permitted Conditional Uses:*

- 1 Lodging and boarding houses
- 2 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 3 Home Occupations, pursuant to Section 7.10.
- 4 Child Care Center and Child Care Home
- 5 Bed and Breakfast establishments.

5.08.04 *Accessory Uses:*

- 1 Buildings and uses customarily incidental to the permitted uses.
- 2 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 3 Signs pursuant to Sections 7.06 through 7.09.
- 4 Parking pursuant to Sections 7.01 through 7.05.
- 5 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 6 Landscaping pursuant to Section 7.16.

5.08.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Single-family, detached	6,000	50 Feet	25 Feet	6 Feet	10 Feet	35 Feet
Single-family, attached	5,000 per unit	50' per unit	25 Feet	*	10 Feet	35 Feet
Two-family Dwelling	10,000	100 Feet	25 Feet	6 Feet	10 Feet	35 Feet
Condominiums and Townhouses	3,000 per unit	25' per unit	25 Feet	*	10 Feet	35 Feet
Other Permitted Uses and Conditional Uses	8,000	75 Feet	25 Feet	25 Feet	10 Feet	45 Feet
Accessory Buildings	-	-	50 Feet	25 Feet	6 Feet **	17 Feet 18'

* Common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.

** If an alley is located at the rear of the lot the accessory rear yard setback may be reduced to 3 feet.

6' ft separation between dwelling and an accessory building

Section 5.09 HDR-1 High Density Residential District

5.09.01 *Intent:* The (HDR-1) High Density Residential District is intended to permit dense residential development to include two-family and multi-family units, as well as other compatible uses.

5.09.02 *Permitted Uses:*

1. Single family dwellings.
2. Two-family dwellings
3. Public and private schools
4. Churches, temples, seminaries, and convents including residences for teachers and pastors.
5. Funeral homes and mortuaries.
6. Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries
7. Public service facilities.

5.09.03. *Permitted Conditional Uses:*

- 1 Multiple family dwellings, provided:
 - a. The common wall between attached units shall be on the side lot line separating the two lots and shall not be subject to side yard requirements providing there are no doors, windows, vents or other openings in the common wall.
 - b. Not more than ~~six~~ ten units shall be attached in this district.
 - c. No unit shall have a depth greater than four times its width.
 - d. Any exterior wall, which is not a common wall, must meet all yard requirements.
 - e. Each lot must have direct access to a public street.
 - f. The deed to each lot must include covenants requiring the proper and timely reconstruction of any damaged or destroyed dwellings.
 - g. The application for such conditional use must include a plat plan with the general location of buildings, parking areas, driveways, fences and other structures, the location of easements and utility lines, the number and type of all dwelling units, and the property lines within the proposed development.
- 2 Lodging and boarding houses
- 3 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 4 Home Occupations, pursuant to Section 7.10.
- 5 Child Care Center and Child Care Home
- 6 Bed and Breakfast establishments.

5.09.04 *Accessory Uses:*

- 7 Buildings and uses customarily incidental to the permitted uses.
- 8 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 9 Signs pursuant to Sections 7.06 through 7.09.
- 10 Parking pursuant to Sections 7.01 through 7.05.
- 11 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 12 Landscaping pursuant to Section 7.16.

ARTICLE 5: ZONING DISTRICTS: HDR-1 HIGH DENSITY RESIDENTIAL DISTRICT

5:09.05 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Single-family, detached	6,000	50'	25'	6'	10'	35'
Single-family, attached	4,000 per unit	50' per unit	25'	6'	10'	35'
Two-family Dwelling	8,000	100'	25'	6'	10'	35'
Condominiums and Townhouses	2,500 per unit	25' per unit	25'	**	10'	35'
Multi-family Dwelling***	Per Unit					
1-Story	3,000	100'	30'	**	10'	45'
2-Story	2,500	100'	30'	**	10'	45'
3-Story	1,750	100'	30'	**	10'	45'
Other Permitted Uses and Conditional Uses	8,000	75'	25'	10'	10'	45'
Accessory Buildings	-	-	50'	10'	6'	18'

* If an alley is located at the rear of the lot the accessory rear yard setback may be reduced to 3 feet.

** Common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.

no more than 22' (various)

Section 5.10 R-M Mobile Home Residential District

- 5.10.01 *Intent:* The (R-M) Residential Mobile Home District is intended to provide for mobile home developments on leased or owned property in areas where a mobile home park or subdivision is appropriate, and where such development is recognized as being in the best interests of the City. The R-M District is a floating zone district. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that the following conditions are met.
- 5.10.02 *Permitted Uses:*
- 1 Single family dwellings.
 - 2 Multiple family dwellings.
 - 3 Mobile home dwellings.
 - 4 Public parks, playgrounds and recreational facilities.
 - 5 Cemeteries, not including mausoleums.
 - 6 Churches and other places of worship.
- 5.10.03 *Permitted Conditional Uses:*
- 1 Child Care Centers.
 - 2 Elderly Day Care Centers.
 - 3 Home Occupations pursuant to Section 7.10.
 - 4 Public utility main transmission lines including substations, distributions centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 5.10.04 *Accessory Uses:*
- 1 Buildings and uses customarily incidental to the permitted uses.
 - 2 Signs pursuant to Sections 7.06 through 7.09.
 - 3 Parking pursuant to Sections 7.01 through 7.05.
 - 4 Landscaping pursuant to Section 7.16.
- 5.10.05 *Lot and Height Requirements:*
1. A mobile home development shall have a lot area of not less than two (2) acres. No mobile homes or other structures shall be located less than twenty-five feet (25') from the road centerline when contiguous to or having frontage to a County Road or State Highway. The setback on all other court property lines shall be ten feet (10'). These areas shall be landscaped. The minimum lot depth in a mobile home court shall be two hundred feet (200').
 2. Each lot provided for occupancy of a single mobile home dwelling shall have an area of not less than four thousand (4,000) square feet, excluding road right-of-way, and a width of not less than forty feet (40'). Each individual lot shall have:
 - a. Side yard setback shall not be less than five feet (5'), except that on corner lots, the setback for all buildings shall be a minimum of twenty-five feet (25') on the side abutting a street/road.
 - b. Front yard setback shall not be less than twenty-five feet (25').
 - c. Rear yard of not less than twenty-five feet (25').
 3. There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home.
 4. Height of buildings shall be:
 - a. Maximum height for principal uses shall be thirty-five feet (35').
 - b. Maximum height for accessory uses shall be ten feet (10').
 5. Each lot shall have access to a hard surfaced drive not less than twenty-four feet (24') in width, excluding parking.
 6. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with design standards for the City. The water supply shall be sufficient for domestic use and for fire protection.
 7. Service buildings including adequate laundry and drying facilities. Common toilet facilities for mobile homes which do not have these facilities within each unit may be provided. Storm shelters will also be provided in case of an emergency.

8. Not less than ten percent (10%) of the total court area shall be designated and used for park, playground and recreational purposes.
9. Each mobile home dwelling shall be provided with a paved patio or equivalent, other than parking spaces, of not less than one-hundred and fifty (150) square feet.

5.10.06 Plan Requirements:

- 1 A complete plan of the mobile home development shall be submitted showing:
- 2 A development plan and grading plan of the court.
- 3 The area and dimensions of the tract of land.
- 4 The number, location, and size of all mobile home spaces.
- 5 The area and dimensions of the park, playground and recreation areas.
- 6 The location and width of roadways and walkways.
- 7 The location of service buildings and any other proposed structures.
- 8 The location of water and sewer lines and sewage disposal facilities.
- 9 Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

5.10.07 Use Limitations: All lots must be platted in accordance with the Subdivision Regulations of the City of Pierce.

Section 5.11 C-1 Downtown Commercial District

5.11.01 *Intent:* The (C-1) Downtown Commercial District is intended to provide for commercial development within the existing downtown area of Pierce that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.11.02 *Permitted Uses:*

- 1 Business and professional services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
- 2 Dance studio, not including uses defined in Adult Establishment.
- 3 Meeting hall, not including uses defined in Adult Establishment.
- 4 Retail business or service establishment supplying commodities or performing services at a small scale, such as, or in compatibility with and including the following:
 - a. Apparel shop.
 - b. Appliance store.
 - c. Antique store.
 - d. Automobile parts supply store, not including repair or service facilities.
 - e. Bakery shop.
 - f. Barber and Beauty shop.
 - g. Bookstore, not including uses defined in Adult Establishment.
 - h. Clothing and tailoring shops.
 - i. Communication services.
 - j. Computer store.
 - k. Drug stores and prescription shops.
 - l. Floral shop and commercial greenhouses.
 - m. Furniture store or showroom.
 - n. Gift and curio shop.
 - o. Grocery store.
 - p. Hardware store.
 - q. Hobby, craft, toy store.
 - r. Indoor amusement and entertainment establishment, including bowling alleys and movie theaters, not including uses defined in Adult Establishment.
 - s. Laundry and dry cleaning pick-up and delivery stations.
 - t. Liquor store.
 - u. Newsstands, not including uses defined in Adult Establishment.
 - v. Photography studio.
 - w. Picture framing shop.
 - x. Restaurants.
 - y. Second hand stores.
 - z. Shoe store.
 - aa. Tanning salon.
 - bb. Variety store, not including uses defined in Adult Establishment.
 - cc. Video store, not including uses defined in Adult Establishment.
 - dd. Telephone exchange.
 - ee. Telephone answering service.

5.11.03 *Permitted Conditional Uses:*

1. Automobile parking lot.
2. Automobile sales and service facilities, including tire sales and installation.
3. Business or professional school.
4. Car wash.
5. Churches, temples, seminaries, and convents including residences for teachers and pastors.
6. Convenience store with limited fuel sales.
7. Dance club, not including uses defined in Adult Establishment.

8. Dry cleaners and establishments (not over two-thousand (2,000) square feet in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
9. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
10. Frozen food locker.
11. Garden supply and retail garden center.
12. Gas station.
13. Liquor store.
14. Lumber yard, home improvement center.
15. Outdoor advertising signs.
16. Tavern and cocktail lounge, not including uses defined in Adult Establishment.
17. Veterinarians' offices and hospitals, and boarding kennels, provided that no structure or building used to house horses or other animals is located closer than one-hundred feet (100') to any residential use.

5.11.04 Accessory Uses

- 1 Buildings and uses customarily incidental to the permitted uses.
- 2 Parking pursuant to Sections 7.01 through 7.05.
- 3 Signs pursuant to Sections 7.06 through 7.09.
- 4 Temporary buildings and uses incidental to construction work, which will be removed upon completion or abandonment of the construction, work.
- 5 Landscaping pursuant to Section 7.16.

5.11.05 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Permitted Uses	-	-	-	*	**	45 feet
Permitted Conditional Uses	-	-	-	*	**	45 feet
Accessory Buildings	-	-	-	*	**	45 feet

* None, except that when adjacent to any residential district, the Side Yard setback shall be ten feet (10').

** None, except that when adjacent to any residential district, the Rear Yard setback shall be twenty-five feet (25').

5.11.06 Use Limitations:

- 1 When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district.
- 2 When adjacent to any residential district, new construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 7.16.04.
- 3 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 4 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5 When adjacent to an alley, the width of the alley shall be included in computing the minimum rear yard setback.

Section 5.12 C-2 General Commercial District

5.12.01 *Intent:* The (C-2) General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.12.02 *Permitted Uses:*

- 1 Business and professional services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
- 2 Child care/day care.
- 3 Dance studio, not including uses defined in Adult Establishment.
- 4 Meeting hall, not including uses defined in Adult Establishment.
- 5 Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
 - a. Agricultural implement sales and service centers.
 - b. Apparel shop.
 - c. Appliance store.
 - d. Antique store.
 - e. Automobile displays, sales, service, and repair.
 - f. Automobile parking lot.
 - g. Automobile parts and supplies store.
 - h. Bakery shop.
 - i. Bar and tavern.
 - j. Barber and Beauty shop.
 - k. Bookstore, not including uses defined in Adult Establishment.
 - l. Business or professional school.
 - m. Building materials retail sales.
 - n. Clothing and tailoring shops.
 - o. Commercial greenhouses.
 - p. Communication services.
 - q. Computer store.
 - r. Department store.
 - s. Drug stores and prescription shops.
 - t. Dry cleaners and establishments (not over two-thousand (2,000) square feet in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
 - u. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
 - v. Floral shop.
 - w. Furniture store or showroom.
 - x. Gift and curio shop.
 - y. Grocery store.
 - z. Hardware store.
 - aa. Hobby, craft, toy store.
 - bb. Indoor amusement and entertainment establishment, including bowling alleys and movie theaters, not including uses defined in Adult Establishment.
 - cc. Laundry and dry cleaning pick-up and delivery stations.
 - dd. Liquor store.
 - ee. Medical and dental clinics.
 - ff. Mortuaries and funeral chapels.
 - gg. Newsstands, not including uses defined in Adult Establishment.
 - hh. Outdoor amusement and entertainment establishment, including miniature golf, but not including outdoor movie theaters.
 - ii. Photography studio.
 - jj. Picture framing shop.
 - kk. Restaurants, cafes, and fast food establishment.
 - ll. Second hand stores.

- mm. Second hand stores.
- a. Shoe store.
- b. Tanning salon.
- c. Variety store, not including uses defined in Adult Establishment.
- d. Video store, not including uses defined in Adult Establishment.
- e. Social club and fraternal organizations, not including uses defined in Adult Establishment.
- f. Telephone exchange.
- g. Telephone answering service.
- h. Public overhead and underground local distribution utilities.

i. **Gum Store**

5.12.03 *Permitted Conditional Uses:*

- 1 Assembly, fabrication, and processing of products inside an enclosed building, except for hazardous or combustible materials.
- 2 Temporary structure for festivals or commercial events.
- 3 Recreational establishments.
- 4 Amusement arcades.
- 5 Garden supply and retail garden center.
- 6 Pool hall.
- 7 Tavern and cocktail lounge, not including uses defined in Adult Establishment.
- 8 Temporary greenhouses.
- 9 Totally enclosed, automated and conveyor-style car washes.
- 10 Outdoor Entertainment.
- 11 Convenience store with limited fuel sales.
- 12 Residences in conjunction with the principle use when located above the ground floor.
- 13 Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 14 Printing and publishing.
- 15 Retail motor vehicle sales and service.
- 16 Car wash.
- 17 Garden supply and retail garden center.
- 18 Retail building material sales.
- 19 Service station and minor automobile repair services.
- 20 Tire store and minor automobile repair service.
- 21 Self-storage units.
- 22 Motel/hotel.

5.12.04 *Accessory Uses*

- 1 Buildings and uses customarily incidental to the permitted uses.
- 2 Parking pursuant to Sections 7.01 through 7.05.
- 3 Signs pursuant to Sections 7.06 through 7.09.
- 4 Temporary buildings and uses incidental to construction work, which will be removed upon completion or abandonment of the construction, work.
- 5 Landscaping pursuant to Section 7.16.

5.12.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Permitted Uses	*	**	45 feet
Permitted Conditional Uses	*	**	45 feet
Accessory Buildings	*	**	45 feet

* None, except that when adjacent to any residential district, the Side Yard shall be ten feet (10).

** None, except that when adjacent to any residential district, the Rear Yard setback shall be twenty-five feet (25').

5.12.06 *Use Limitations:*

- 1 When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district.
- 2 When adjacent to any residential district, new construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 7.16.04.
- 3 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

ARTICLE 5: ZONING DISTRICTS: C-2 GENERAL COMMERCIAL DISTRICT

- 12
- 4 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
 - 5 When adjacent to an alley, the width of the alley shall be included in computing the minimum rear yard setback.

Section 5.13 C-3 Highway Commercial District

5.13.01 *Intent:* The (C-3) Highway Commercial District is intended to establish standards that will foster and maintain a specific area of commercial development that will benefit the entire community and enhance the highway corridor approaching Pierce.

5.13.02 *Permitted Uses:*

1. Car Washes.
2. Indoor Skating rinks.
3. Nursery and Garden Stores.
4. Package Liquor Stores.
5. Private Clubs and Lodges.
6. Restaurants.
7. Taverns.
8. Veterinarian or animal hospital provided any such building, kennel, or exercise runway is located at least one hundred feet (100') away from any residential district boundary.

5.13.03 *Permitted Conditional Uses:*

1. Agriculture implement sales and services.
2. Automobile, motorcycle, and truck sales and services.
3. Commercial Recreation Center.
4. Construction equipment rental and sales.
5. Convenience store with limited fuel sales.
6. Electric and telephone substations.
7. Lumber and building materials sales yard.
8. Mobile Home and Trailer sales and rentals.
9. Outdoor amusement establishments (amusement parks, permanent carnival and kiddie-parks, miniature golf, driving ranges).
10. RV parks.
11. Self-storage units.
12. Service Stations.
13. Warehouses and retail businesses for agricultural purposes.
14. Motel / Hotel

5.13.04 *Permitted Accessory Uses:*

- 1 Buildings and uses customarily incidental to the permitted uses.
- 2 Parking pursuant to Sections 7.01 through 7.05.
- 3 Signs pursuant to Sections 7.06 through 7.09.
- 4 Temporary buildings and uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
- 5 Landscaping pursuant to Section 7.16.

5.13.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Use	10,000 sq.ft.	100 feet	30 feet	5*	**	45 feet***	25%
Permitted Conditional Use	10,000 sq.ft.	100 feet	30 feet	5*	**	45 feet***	25%
Accessory Buildings	-	-	-	5*	**	45 feet***	25%

* When located adjacent to any residential use, the side yard setback shall be ten feet (10').

** The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth. With buildings three stories or greater having a rear yard setback of 30 feet.

*** The maximum height of any use shall be decreased to thirty-five feet (35') when located within one-hundred feet (100') of any residential district.

5.13.06 *Use Limitations:*

- 1 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such district.

- 2 When adjacent to any residential district, new construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 7.16.04.
- 3 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 4 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5 All developments shall include access roads and an interior circulation system.

Section 5.14 I-1 Limited Industrial District

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

Adult Entertainment Facilities are included in this Zoning District. The intent of the Pierce Zoning Ordinance in including these uses in this district is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

5.14.02 *Permitted Uses:*

- 1 Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
- 2 Manufacture and assembly of electrical and electronic appliances.
- 3 Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
- 4 Manufacture of light sheet metal products including heating and ventilation equipment.
- 5 Public local distribution and main transmission utilities.
- 6 Warehouses and wholesale businesses.
- 7 Building materials yards with enclosed and screened storage areas.
- 8 Highway maintenance yards or buildings.
- 9 Self storage units.

5.14.03 *Permitted Conditional Uses:*

1. Radio, television and communication towers and transmitters, pursuant to Section 7.11.
2. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
3. Auction Sales.
4. Grain Storage.
5. Construction and heavy equipment sales and service.
6. Farm implement sales and service.
7. Truck terminal and dock facilities to include truck washing.
8. Auto body repair and shops.
9. Perimeter security fencing above six (6) feet in height.
10. Adult Entertainment establishments, provided:
 - a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district or use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the closest point on the property line of such other adult business, residential district or use, religious use, educational uses and recreational use.
 - b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
 - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
 - d. No adult business shall be open for business between the hours of twelve midnight (12:00 am) and 6:00 a.m.
 - e. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
 - f. Such use shall not impair an adequate supply of light and air to surrounding property.

- g. Such use shall not unduly increase congestion in the streets or public danger of fire and safety.
- h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
- i. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Pierce, Nebraska.
- j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
- k. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
- l. Prohibited Activities of Adult Businesses are as follows:
 - i. No adult business shall employ any person under eighteen (18) years of age.
 - ii. No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
 - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
 - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.14.04 Accessory Uses:

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Parking pursuant to Sections 7.01 through 7.05.
- 3. Signs pursuant to Sections 7.06 through 7.09.
- 4. Temporary buildings and uses incidental to construction work, which will be removed upon completion or abandonment of the construction, work.
- 5. Landscaping pursuant to Section 7.16.

5.14.05 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000 sq.ft.	100 feet	30 feet	5 feet	25 feet	60 feet*	35%
Permitted Conditional Uses	10,000 sq.ft.	100 feet	50 feet	5 feet	25 feet	60 feet*	35%
Accessory Buildings	-	-	-	-	-	60 feet*	20%

* The maximum height of any use shall be decreased to forty-five feet (45') when located within one-hundred-fifty feet (150') of any residential district.

5.14.06 Use Limitations:

- 1 When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, pursuant to section 7.16.04.
- 2 When adjacent to any residential district, new construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 7.16.04.

- 3 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 4 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5 All developments shall include access roads and an interior circulation system.

5.14.07 *Performance Standards:* See Section 7.14 of the Supplemental Regulations

Section 5.15 Transitional Agricultural and Residential Lot and Area Requirements

District	Minimum Lot Size		Minimum Yard Setback			Maximum Building Height
	Area	Width	Front	Side	Rear	
TA - Transitional Agriculture						
Residential Dwelling (private well and/or private sept	2 1/2 acres	300 feet	(1)	(2)	(3)	35 feet
Residential Dwelling (public water and public sewer)	10,000 sq.ft.	100 feet	(1)	(2)	(3)	35 feet
Other Permitted Uses	3 acres	660 feet	(1)	(2)	(3)	35 feet
Permitted Conditional Uses	20 acres	660 feet	(1)	(2)	(3)	35 feet
Accessory Buildings	-	-	(1)	(2)	(3)	45 feet
LDR-1 - Low Density Residential						
Single Family Dwelling	2 1/2 Acres(4)	70 feet	25 feet	6 feet	10 Feet	35 feet
Other Permitted Uses	2 1/2 Acres(4)	100 feet	25 feet	6 feet	10 Feet	35 feet
Permitted Conditional Uses	2 1/2 Acres(4)	100 feet	25 feet	6 feet	10 Feet	35 feet
Accessory Buildings	-	-	25 feet	6 feet	6 Feet	20 feet
LDR-2 - Low Density Residential						
Single Family Dwelling	8,000 sq.ft.	70 feet	25 feet	6 feet	10 Feet	35 feet
Other Permitted Uses	10,000 sq.ft.	100 feet	25 feet	6 feet	10 Feet	35 feet
Permitted Conditional Uses	10,000 sq.ft.	100 feet	25 feet	6 feet	10 Feet	35 feet
Accessory Buildings	-	-	25 feet	6 feet	6 Feet	20 feet
MDR-1 - Medium Density Residential						
Single-family, detached	6,000	50 Feet	25 feet	6 feet	10 Feet	35 Feet
Single-family, attached	5,000 per unit	50' per unit	25 feet	(6)	10 Feet	35 Feet
Two-family Dwelling***	10,000	100'	25 feet	6 feet	10 Feet	35 Feet
Condominiums and Townhouses	3,000 per unit	25' per unit	25 feet	(6)	10 Feet	35 Feet
Other Permitted Uses and Conditional Uses	8,000	75'	25 feet	25'	10 Feet	45 Feet
Accessory Buildings	-	-	50'	25'	6 Feet	17 Feet
HDR-1 - High Density Residential						
Single-family, detached	6,000	50'	25'	6 feet	(5)	35'
Single-family, attached	4,000 per unit	50' per unit	25'	6 feet	(5)	35'
Two-family Dwelling***	8,000	100'	25'	6 feet	(5)	35'
Condominiums and Townhouses	2,500 per unit	25' per unit	25'	(6)	(5)	35'
Multi-family Dwelling***	Per Unit					
1-Story	4,000	100'	30'	(6)	(5)	45'
2-Story	2,500	100'	30'	(6)	(5)	45'
3-Story	1,750	100'	30'	(6)	(5)	45'
Other Permitted Uses and Conditional Uses	8,000	75'	25'	10'	(5)	45'
Accessory Buildings	-	-	50'	10'	6 Feet	17'

- (1) Front yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, measured from road right-of-way.
- (2) Side yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, and shall be fifteen feet (15') from interior property lines, measured from road right-of-way.
- (3) Rear yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, and shall be twenty-five feet (25') from interior property lines, measured from road right-of-way.
- (4) If on private sewer and public water minimum lot size may be reduced to 1 1/2 acres. If on private water and public sewer minimum lot size may be reduced to 1/2 acres.
- (5) The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth.
- (6) Common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.
- (7) The rear yard setback for an accessory building having vehicular access from an alley shall be twenty-five feet (25').

Section 5.16 Commercial and Industrial Lot and Area Requirements

District	Minimum Lot Size		Minimum Yard Setback			Maximum	Maximum Lot
	Area	Width	Front	Side	Rear	Building Height	Coverage
C-1 - Downtown Commercial							
Permitted Uses	-	-	-	(8)	(9)	45 feet	-
Permitted Conditional Uses	-	-	-	(8)	(9)	45 feet	-
Accessory Buildings	-	-	-	(8)	(9)	45 feet	-
C-1 - General Commercial							
Permitted Uses	3,000 sq.ft.	25 feet	25'	15'	15'	45 feet(10)	-
Permitted Conditional Uses	3,000 sq.ft.	25 feet	25'	15'	15'	45 feet(10)	-
Accessory Buildings	-	-	-	(8)	(9)	20 feet	-
C-2 - Highway Commercial							
Permitted Uses	10,000 sq.ft.	100 feet	30 feet	5'(11)	(14)	45 feet(12)	25%
Permitted Conditional Use	10,000 sq.ft.	100 feet	30 feet	5'(11)	(14)	45 feet(12)	25%
Accessory Buildings	-	-	-	5'(11)	(14)	45 feet(12)	25%
I-1 - Industrial							
Permitted Uses	10,000 sq.ft.	100 feet	30 feet	5 feet	25 feet	75 feet(13)	35%
Permitted Conditional Uses	10,000 sq.ft.	100 feet	50 feet	5 feet	25 feet	75 feet(13)	35%
Accessory Buildings	-	-	-	-	-	75 feet(13)	20%

- (8) None, except that when adjacent to any residential district, the Side Yard setback shall be ten feet (10').
- (9) None, except that when adjacent to any residential district, the Rear Yard setback shall be twenty-five feet (25').
- (10) The maximum height of any use shall be decreased to thirty-five feet (35') when located within one-hundred feet (100') of any residential district.
- (11) When located adjacent to any residential use, the side yard setback shall be ten feet (10').
- (12) The maximum height of any use shall be decreased to thirty-five feet (35') when located within one-hundred feet (100') of any residential district.
- (13) The maximum height of any use shall be decreased to forty-five feet (45') when located within one-hundred-fifty feet (150') of any residential.
- (14) The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth. With buildings three stories or greater having a rear yard setback of 30 feet.

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions

The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

Section 6.02 Application for Conditional Use Permits

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. A drawing or site plan and other such plans shall accompany the application, as well as data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 Public Hearing

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Pierce, one time at least 10 days prior to such hearing.

Section 6.04 Decisions

A majority vote of the Council shall be necessary to grant a conditional use permit. No order of the Council granting a conditional use permit shall be valid for a period of longer than twelve months from the date of such order, unless the Council specifically grants a longer period of time upon the recommendation of the City Planning Commission.

Section 6.05 Standards

No conditional use permit shall be granted unless that Planning Commission or City Council has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.05.05 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

- 6.05.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.05.08 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 Off-Street Automobile Storage

- 7.01.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred (200) square feet per parking space shall be used.
- 7.01.02 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.01.03 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
- 7.01.04 All parking spaces for single-family dwellings, two or more unit multi-family dwellings, convalescent homes, apartments, townhouses, and mobile homes shall be paved with gravel, crushed rock, asphalt or concrete.
- 7.01.05 In Districts LDR-1, LDR-2, MDR-1, and RM, required off-street parking shall be provided on the lot on where the use to which the parking pertains. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot, provided, however, the lot on which the use requiring them is located and the lot providing the parking are not separated by more than four-hundred feet (400') at closest points, measured along a street or streets. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 7.01.06 In the C-1 Downtown Commercial District no off-street parking is required.

Section 7.02 Off-street Parking: Shared Parking Requirements

- 7.02.01 Notwithstanding the provisions of Section 7.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the Planning Commission and City Council. Said request for a decrease in parking spaces shall be accompanied by a rezoning to a Planned Unit Development (PUD) and the request is made during the Preliminary PUD application process. All regulations of the PUD District shall be adhered to within the development.

Section 7.03 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses	Parking Requirements	Loading Requirements
Adult entertainment establishments	One (1) space per 2 persons of licensed capacity	None required
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches, Synagogues, and Temples	One (1) space per 4 seats in main worship area	None required
Clubs, including fraternal organizations	One (1) space per 500 s.f. of gross floor area	None required
College/University	Eight (8) spaces per classroom plus 1 space per employee	Two (2) spaces per structure
Commercial Uses		
Agricultural Sales / Service	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Automotive Rental / Sales	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Automotive Servicing	Three (3) spaces per repair stall	None required
Bars, Taverns, Nightclubs	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Body Repair	Four (4) spaces per repair stall	None required
Equipment Rental / Sales	One (1) space per 500 s.f. of gross floor area	One (1) Space
Campground	One (1) space per camping unit	None required
Commercial Recreation	One (1) space per 4 persons of licensed capacity	One (1) per establishment
Communication Services	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Construction Sales / Service	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Food Sales (limited)	One (1) space per 300 s.f. of gross floor area	One (1) per establishment
Food Sales (general)	One (1) space per 200 s.f. of gross floor area	Two (2) per establishment
General Retail Sales establishments	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Laundry Services	One (1) space per 200 s.f. of gross floor area	None required
Restaurants w/ drive-thru	Greater of the two: One (1) space per 40 s.f. of dining area, or One (1) space per 150 s.f. of gross floor area	One (1) per establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Convalescent and Nursing Home Services	One (1) space per 3 beds plus 1 per employee on the largest shift	Two (2) space per structure
Day Care	One (1) space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
Educational Uses, Primary facilities	Two (2) spaces per classroom	Two (2) spaces per structure
Educational Uses, Secondary facilities	Eight (8) spaces per classroom plus 1 space per employee on largest shift	Two (2) spaces per structure
Funeral Homes and Chapels	Eight (8) spaces per reposing room	Two (2) spaces per establishment
Group Care Facility	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Group Home	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Guidance Services	One (1) space per 300 s.f. of gross floor area	None required
Hospitals	One (1) space per 2 licensed beds	Three (3) spaces per structure
Hotels and Motels	One (1) space per rental unit	One (1) space per establishment
Housing (Congregate)		
Assisted-living facilities	One (1) space per dwelling unit plus 1 space per employee on the largest shift	One (1) per structure
Duplex	Two (2) spaces per dwelling unit	None required
Multi-family / Apartments	One (1) space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Industrial Uses	.75 times the maximum number of employees during the largest shift	Two (2) spaces per establishment
Libraries	One (1) space 500 s.f. of gross floor area	One (1) per structure
Boarding Houses / Bed and Breakfasts	One (1) space per rental units	None required
Medical Clinics	Five (5) spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	Two (2) per dwelling unit	None required
Offices and Office Buildings	One (1) space per 200 s.f. of gross floor area	None required
Residential (Single-family, attached and detached)	Two (2) spaces per dwelling unit with 1 required to be enclosed	None required
Roadside stands	Four (4) spaces per establishment	None required
Service Oriented Establishments	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Theaters, Auditoriums, and Places of Assembly	One (1) space per 5 persons of licensed capacity	One (1) space per establishment
Veterinary Establishments	Three (3) spaces per staff doctor	None required
Wholesaling / Distribution Operations	One (1) space per 2 employees on the largest shift	Two (2) spaces per establishment

Section 7.04 Off-Street Parking: Parking for Individuals with Disabilities

7.04.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

- 7.04.02 Except as provided to Section 7.04.01 of this Ordinance, access aisles adjacent to accessible spaces shall be five feet (5') wide minimum.
1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet (8') wide minimum and shall be designated "van accessible" as required by Section 7.04.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.
 2. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.
 3. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding two percent (2%) in all directions.
 4. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.
 5. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:
 - a. Outpatient units and facilities: ten percent (10%) of total number of parking spaces provided serving each such outpatient unit or facility;
 - b. Units and facilities that specialize in treatment or services for persons with mobility impairments: twenty percent (20%) of the total number of parking spaces provided serving each such unit or facility.
- 7.04.03. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
 2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
- 7.04.04. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.04.02.01 shall have an additional sign "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so a vehicle parked in the space cannot obscure them.

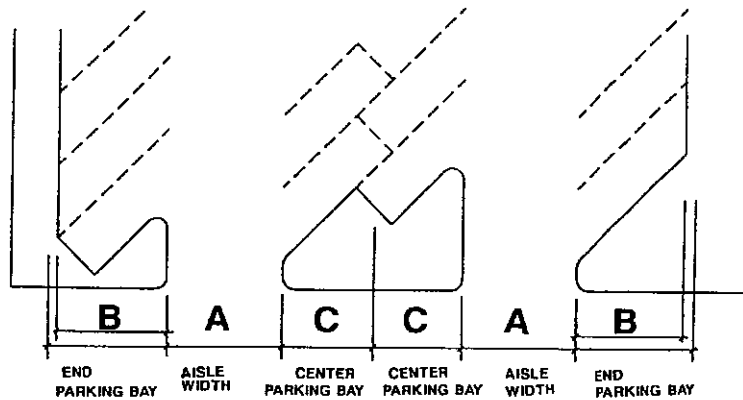
- 7.04.05. Minimum vertical clearance of nine and one-half feet (9-1/2') at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02.01, provide minimum vertical clearance of eight-feet two-inches (8'-2") at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- 7.04.06. Passenger Loading Zones shall provide an access aisle at least five feet (5') wide and twenty feet (20') long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent (2%) in all directions.

Section 7.05 Off-Street Parking Design Criteria

- 7.05.01 Standard parking stall dimensions shall not be less than nine feet (9') by eighteen feet (18'), plus the necessary space for maneuvering into and out of the space. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration

	90-degree	60-degree	45-degree
Aisle Width (A)			
One-way traffic	18 feet	14 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width (B)			
Without overhang	18 feet	19 feet	19 feet
With overhang	16 feet	17 feet	17 feet
Center Parking Bay Width (C)	18 feet	18 feet	16 feet



- 7.05.02 Parking spaces located along the outer boundary of a parking lot Where the end of the parking space abuts a curbed area at least five feet (5') in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet (2').
- 7.05.03 Minimum dimensions for a parallel parking space shall be nine feet (9') by twenty-three feet (23').
- 7.05.04 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

Section 7.06 Sign Definitions

- 7.06.01. **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.
- 7.06.02. **SIGN, ANIMATED** shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- 7.06.03. **SIGN, ANNOUNCEMENT** shall mean a small announcement or professional signs, not over 6 square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
- 7.06.04. **SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.
- 7.06.05. **SIGN AREA** shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.
- 7.06.06. **SIGN, AWNING OR CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
- 7.06.07. **SIGN, BANNER** shall mean any sign of lightweight, fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.
- 7.06.08. **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.
- 7.06.09. **SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.
- 7.06.010. **SIGN, BUILDING MARKER** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- 7.06.011. **SIGN, CHANGEABLE COPY** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.
- 7.06.012. **SIGN, CLOSED** shall mean a sign in which more than fifty percent (50%) of the entire area is solid or tightly closed or covered.
- 7.06.013. **SIGN, COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

- 7.06.014. **SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.
- 7.06.015. **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- 7.06.016. **SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.
- 7.06.017. **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
- 7.06.018. **SIGN, GROUND** shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet (6').
- 7.06.019. **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.
- 7.06.020. **SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
- 7.06.021. **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- 7.06.022. **SIGN, NAMEPLATE** shall mean a sign not exceeding two (2) square feet for each dwelling.
- 7.06.023. **SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance.
- 7.06.024. **SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six (6) months after the termination of the existence of such business or the termination of sale of the product advertised.
- 7.06.025. **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.
- 7.06.026. **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.
- 7.06.027. **SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.
- 7.06.028. **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- 7.06.029. **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet (6') or more above grade.

- 7.06.030. **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- 7.06.031. **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches (8") beyond the surface of such building or wall.
- 7.06.032. **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.
- 7.06.033. **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.
- 7.06.034. **SIGN, ROOF (INTEGRAL)** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches (6').
- 7.06.035. **SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.
- 7.06.036. **SIGN, SUBDIVISION** identification shall mean a sign erected on a subdivision identification lot that identifies the platted subdivision where the sign is located.
- 7.06.037. **SIGN, SURFACE** shall mean the entire area of a sign.
- 7.06.038. **SIGN, SUSPENDED** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- 7.06.039. **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.
- 7.06.040. **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- 7.06.041. **SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Section 7.06 Signs: Standard of Measurement

- 7.06.01 The total area of all signs permitted on a lot shall include:
1. The total area of the faces of all permanent exterior signs visible from a public way, plus
 2. The area of permanent signs placed upon the surface of windows and doors, plus
 3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
- 7.06.02 A building or use having frontage on a second street may include twenty percent (20%) of the length of the lot facing the second street.

Section 7.07 Signs: Area Computation

- 7.07.01 *Computation of Area of Individual Signs:* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.
- 7.07.02 *Computation of Area of Multi-faced Signs:* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two inches (42") apart, the sign area shall be computed by the measurement of one of the faces.
- 7.07.03 *Computation of Height:* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign, or (2) normal grade. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

Section 7.08 Sign Schedule

7.08.01 Signs shall be permitted in the various districts according to the following schedule:

Zoning District	FW	TA	LDR-1	LDR-2	MDR-1	HDR-1	R-M	C-1	C-2	C-3	I-1
Sign Type											
Real Estate	-	+	+	+	+	+	+	+	+	+	+
Announcement	-	+	+	+	+	+	+	+	+	+	+
Wall	-	+	-	-	-	-	-	+	+	+	+
Name Plate	-	C	+	+	+	+	+	+	+	+	+
Billboard	-	-	-	-	-	-	-	-	-	-	-
Ground	-	C	C	C	C	C	C	+	+	+	+
On-Site Advertising	-	C	-	-	-	-	-	C	C	C	C
Off-Site Advertising	-	-	-	-	-	-	-	-	-	-	-
Pole	-	-	-	-	-	-	-	C	+	+	+

+: permitted -: not permitted C: Conditional Use

7.08.02 Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

Zoning District	FW	TA	LDR-1	LDR-2	MDR-1	HDR-1	R-M	C-1	C-2	C-3	I-1
Sign Type											
Real Estate											
Max. Square Ft.	-	32	6	6	6	6	6	32	32	32	32
Max. Height	-	6'	-	-	-	-	-	4'	4'	4'	4'
Announcement											
Max. Square Ft.	-	32	6	6	6	6	6	32	32	32	32
Max. Height	-	4'	4'	4'	4'	4'	4'	4'	4'	4'	4'
Wall											
Max. Square Ft.	-	50	-	-	-	-	-	100	100	200	200
Max. Height	-	15'	-	-	-	-	-	45'	45'	45'	45'
Name Plate											
Max. Square Ft.	2	2	2	2	2	2	2	-	-	-	-
Max. Height	-	-	-	-	-	-	-	-	-	-	-
Billboard											
Max. Square Ft.	-	-	-	-	-	-	-	-	-	-	-
Max. Height	-	-	-	-	-	-	-	-	-	-	-
Ground											
Max. Square Ft.	-	100	-	-	-	-	-	100	100	200	200
Max. Height	-	10'	-	-	-	-	-	10'	10'	10	10'
On-Site Advertising											
Max. Square Ft.	-	100	-	-	-	-	-	100	100	200	200
Max. Height	-	45'	-	-	-	-	-	45'	45'	45'	45'
Off-Site Advertising											
Pole											
Max. Square Ft.	-	-	-	-	-	-	-	100'	100'	200	200'
Max. Height	-	-	-	-	-	-	-	15'	15'	15'	15'

-: Not Permitted

Section 7.09 Signs: Special Conditions

7.09.01 *Real Estate.* Not more than two (2) signs per lot may be used as a temporary sign. Signs in the TA District shall be set back twenty feet (20) from the road right-of-way or road easement.

7.09.02 *Billboards.* Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.

1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety
2. No billboard, signboard, or similar advertising signs shall be located within one hundred feet (100) of any lot in a residential district.

3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- 7.09.03 Signs hung from canopies and awnings shall be no closer than seven and one-half feet (7-1/2') from the bottom edge of the sign to grade below.

Section 7.10 Home Occupations

Home Occupations shall be conditional uses permitted in the TA, LDR-1, LDR-2, MDR-1, HDR-1, and RM Districts, subject to the following conditions:

- 7.10.01 *Intent.* A home occupation shall be permitted when said occupation conducted on residentially used premises is considered customary and traditional, incidental to the primary use of the premises as a residence, and not construed as a business. An application for a home occupation shall be made to the Zoning Administrator on a form provided. Said application will be presented to planning commission for recommendation to the City Council.
- 7.10.02 *Purpose.* Permitted home occupations shall be of a personal service nature limited to domestic crafts and professional service, including, but not limited to:
1. Such domestic crafts as dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work, carpentry work, and furniture repair.
 2. Such professions as law, medicine, architecture, engineering, planning, real estate, insurance, notary public, manufacturer's agent, clergy, writing, painting, photography, and tutoring, ~~provided, however, the service is limited to advice and consultation and the premises are not used for the general practice of the profession.~~
 3. Child Nurseries or Child Care Homes in accordance with Neb. Rev. Stat. §71-1902 (R.R.S.1997).
 4. Barber and Beauty Shops, limited to one (1) chair.
 5. Therapeutic Massage Parlors, not including adult entertainment establishments, limited to serving one (1) client at any given time.
 6. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
 7. Services provided outside the home such as lawn care, snow removal, and other similar uses.
- 7.10.03 Permitted home occupations shall be subject to all the regulations of the applicable zone district. Permitted home occupations shall not affect adversely the residential character of the zone district or interfere with the reasonable enjoyment of adjoining properties. Prohibited uses are those uses that are deemed to be in violation of the Performance Standards of this Ordinance.
- 7.10.04 *Performance Standards.*
1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
 2. The operator conducting the home occupation shall be the sole entrepreneur, and he shall not employ any other person other than a member of the immediate family residing on the premises. This standard applies only when the primary service is conducted within the confines of the residence.
 3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
 4. No more than twenty-five percent (25%) of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
 5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
 6. ~~Home occupations conducted within an Accessory Building shall be confined to the structure of the said Accessory Building.~~
 7. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.

8. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities, and no additional driveway to serve such home occupations shall be permitted.
9. No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two (2) square feet in total surface area.
10. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.

7.10.05 *Revocation:*

1. *Conditions.* A home occupation permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - a. That any condition of the home occupation permit has been violated;
 - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
 - c. That the permit was obtained by misrepresentation or fraud;
 - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
 - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. *Appeal.* Within five (5) working days of a revocation, an appeal may be made to the City Council, through the Zoning Administrator. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation action, shall report his or her findings of fact and decision to the City Council. The City Council shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation permit in accordance with the Board's final determination.
3. *Nontransferable.* A home occupation permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 7.11 Wireless Communication Towers

7.11.01 *Intent:* The Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication services, telecommunication facilities, towers and antennas in the City, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

7.11.02 *Definitions:* All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

- 7.11.02.01 ***ANTENNA*** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.

- 7.11.02.02 **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
- 7.11.02.03 **APPLICANT** shall mean any person that applies for a Tower Development Permit.
- 7.11.02.04 **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.
- 7.11.02.05 **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
- 7.11.02.06 **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
- 7.11.02.07 **OWNER** shall mean any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
- 7.11.02.08 **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- 7.11.02.09 **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
- 7.11.02.10 **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
- 7.11.02.11 **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
- 7.11.02.11.01 Any Conforming Commercial Earth Station antenna that measures six feet (6') or less in diameter which is located on real estate zoned TA, R1, R2, RM, C1, C2, C3, or I.
- 7.11.02.11.02 Any earth station antenna or satellite dish antenna of three feet (3') or less in diameter, regardless of zoning applicable to the location of the antenna.
- 7.11.02.12 **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operators equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
- 7.11.02.13 **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City. Such permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and

may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.

7.11.02.14 **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

7.11.03 *Location of Towers and Construction Standards:*

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay a filing fee.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineers certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Office.

7.11.04 *Application to Develop a Tower:* Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Office for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. All applicants shall execute the application.
2. The legal description and address of the tract of land on which the tower is to be located.
- X 3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.
- X 4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support, or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. ~~A performance bond in the amount of fifty thousand dollars (\$50,000) for the expenses of removal and disposal of the tower.~~ — not applicable

7.11.05 *Tower Development Permit Procedure:* After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all

Statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (10) days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

7.11.06 *Setbacks and Separation or Buffer Requirements:*

1. All towers up to fifty feet (50') in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty feet (50') in height shall be set back an additional one foot (1') for each one foot (1') of tower height in excess of fifty feet (50'). The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding one hundred feet (100') in height may not be located in any residentially zoned district. Further, such towers shall also be separated from all residentially zoned districts, and any other occupied structures other than those utilized by the tower owner, by a minimum of two hundred feet (200') or one hundred percent (100%) of the height of the proposed tower, whichever is greater.
3. Towers of one hundred feet (100') or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
 - a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven hundred fifty feet (750').
 - b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred feet (1,500').

7.11.07 *Structural Standards for Towers:* The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

7.11.08 *Illumination and Security Fences:*

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of three-hundred percent (300%) of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

7.11.09 *Exterior Finish:* Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Council as part of the application approval process. All towers which must be approved as a conditional use shall be design with stealth features unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

- 7.11.10 *Landscaping:* All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.
- 7.11.11 *Maintenance, Repair or Modification of Existing Towers:* All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.
- 7.11.12 *Inspections:* As a condition to the approval of a Tower Development Permit, the applicant shall grant to the City the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Applicant shall also grant permission to any employee of the City's Zoning Office, Building Inspector, or other duly appointed independent representative of the City, to enter onto the property of applicant for the purpose of conducting such inspection.
- 7.11.13 *Maintenance:* The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.
- 7.11.14 *Abandonment:*
1. The tower owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the tower facility.
 2. If any tower shall cease to be used for a period of one (1) year, the Zoning Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have seventy-five (75) days thereafter to dismantle and remove the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Nebraska State Statutes and City of Pierce codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.
- 7.11.15 *Satellite Dish Antennas, Regulation:* Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Pierce only upon compliance with the following criteria:
1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten feet (10').
 2. Single family residences may not have more than one (1) satellite dish antenna over three feet (3') in diameter.
 3. Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three feet (3') in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three feet (3') in diameter.

4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Pierce, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

7.11.16 *Severability*: If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

Section 7.12 Fences

- 7.12.01 No fence shall be constructed within the zoning jurisdiction of the City of Pierce unless a permit therefore is approved and issued by the zoning administrator and is constructed in conformance with the following requirements:
1. The height limitation for fences shall be six feet (6') above ground level except as provided herein.
 2. A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence within a front yard of a residential lot shall not exceed forty-two inches (42") in height.
 3. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet (8') in height may be approved by through a Conditional Use Permit.
 4. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.
 5. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed six feet (6') in height.
- 7.12.02 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.
- 7.12.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 7.12.04 The use of barbed wire in the construction of any fence is prohibited except:
1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
 2. Farm fencing constructed for agricultural purposes.
- 7.12.05 All fences shall be maintained in good repair.
- 7.12.06 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the City agree to build one (1) fence on the common lot line of adjacent side yards or back yards.
- 7.12.07 *Electric Fences*. No electric fence shall be constructed or maintained within the City of Pierce or within its extraterritorial zoning jurisdiction except in the TA-Transitional Agriculture District or as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Building Inspector shall approve any electrified fencing, he shall determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

- 7.12.08. *Facing.* The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
- 7.12.10 *Fences in existence as of the effective date of this Ordinance.* Any existing fence constructed pursuant to a permit issued and approved by the City of Pierce which was in conformity with the prior provisions of this section and which was in place as of said date, may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.
- 7.12.11 All non portable swimming pools, with a depth of which is greater than 24 inches, perimeters must be enclosed at ground level by a 6' high fence in which no opening shall permit the passage of a 6" diameter sphere. All gates must have locking hardware to prevent access when not in use.

Section 7.13 Storage or Parking of Vehicles, Boats, Campers and Trailers

- 7.13.01 No lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Pierce shall be used for any of the following:
1. The storage or keeping of motor vehicles not having a property issued current motor vehicle registration and current motor vehicle license plate property displayed; provided, however, that the following shall not constitute a violation of this subparagraph.
 2. The storage of unlicensed and/or unregistered motor vehicles except in a fully enclosed garage.
 3. The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Transitional Agricultural Residence (TA) or any Industrial District and used in agricultural or industrial activity conducted on said premises.
- 7.13.02. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the Pierce zoning regulations.
- 7.13.03. Parking, storage, or keeping, other than in a fully enclosed garage, of any non-operable motor vehicle on any lot zoned residential, provided, however, that automobiles that are non-operable solely by reasons of repair work being done thereon may be parked on residential lots within the Pierce zoning jurisdiction occupied by the owner of said automobile, under the following conditions:
1. The automobile is owned by the occupier of the premises and registered to him/her at that address.
 2. The period of said repair work does not exceed ten (10) days in duration;
 3. Said repair work is at all times conducted on a hard surface driveway; and
 4. No more than one (1) automobile in need of repair is situated on the premises at the same time.
- 7.13.04. No motor vehicle as defined by section 60-301 of Nebraska State Statutes (or boat, camper or trailer ~~in excess of 15 feet in length or 10 feet in height~~) shall be parked in the front, side or rear yard of any lot zoned residential except on paved driveways or other hard surfaced areas as designed and provided for in Article 2; provided that:
1. Boats, campers, trailers or any combination thereof not exceeding two (2) may be parked in the side or rear yard of lots zoned residential from October through April of each year without being parked on a hard surface. A camper or boat situated on a trailer shall be considered as one vehicle.
 2. Said boats, campers and trailers together with accessory structures shall not occupy more than thirty-five percent of the required rear yard.
- 7.13.05. ~~Notwithstanding the foregoing, it shall be permissible to park motor vehicles in the yards of residential lots on areas which are not paved as driveways or otherwise hard surfaced for a period not to exceed seventy-two (72) hours, and as allowed by conditional permit to accommodate temporary guests or visitors for no more than 14 days.~~ Any motor vehicle, boat, camper or trailer

parked, stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle, boat, camper or trailer is situated, and if the owner is different than the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interest at the highest legal rate that the City is authorized by law to collect on special assessments.

- 7.13.06 Large storage containers or roll offs maybe used only for construction or moving purposes can be placed on City right-of-way or private property for a period of no more than 30 days (LDR-1, LDR-2, MDR-1, and HDR-1 Districts Only).

Section 7.14 Performance Standards for Industrial Uses

- 7.14.01 *Physical Appearance:* All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 7.14.02 *Fire hazard:* No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Pierce.
- 7.14.03 *Noise:* No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
- 7.14.04 *Sewage and Liquid Wastes:* No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- 7.14.05 *Air Contaminants:*
1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
 2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
 3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
 4. *Odor:* The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these Regulations.

5. *Gasses:* The gasses sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the zoning lot line.
6. *Vibration:* All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
7. *Glare and heat:* All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

Section 7.16 Landscaping Requirements

- 7.16.01 *Intent:* The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of Pierce by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with then provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

- 7.16.02 *Application and Scope:* The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

1. Agricultural buildings, structures and uses.
2. Replacement of lawfully existing structures or uses.
3. Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking of less than 4,000 square feet shall not be excepted. Where such enlargement is less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.
4. Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.
 - a. When a lot or site with more than one ownership has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City Council with the recommendation of the City Planning Commission.

- 7.16.03 *Screening Requirements:*

1. All parking areas or vehicular use areas abutting a residential district or public right-of way shall be screened from grade level to a height not less than 3 feet.
2. All commercial and industrial uses that abut residential or office districts shall provide screening not less than 6 feet in height along the abutting property line(s).
3. Screening required by this section shall be equivalent to the following:
 - a. Solid fences or walls as approved by the Planning Commission on the final development plan.
 - b. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within 3 years after planting.
 - c. Berms of not less than 3 feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.17.04.03 (1) above.
 - d. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid 6-foot enclosure

around each unit. Said enclosure shall be of complementary materials suitable to the Planning Commission.

7.16.04 Installation and Maintenance of Landscaping and Screening:

1. *Installation:* All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. A qualified code enforcement officer or other planning official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Deputy Building Official.
2. *Maintenance:* The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement. Underground sprinkler systems shall be provided to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Planning Commission.

All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

7.16.05 Preliminary Plan Approval: A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, preliminary PUD, or preliminary site plan for development, for review and recommendation by the Planning Commission and approval by the City Council. Said Plan shall be in sufficient detail to provide the Commission and City Council with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

7.16.06 Final Plan Approval: A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning Commission on separate sheets for review and recommendation and approval by the City Council along with a planting schedule at final development plan submission.

7.16.07 Parking Lot Plan Approval: A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

1. New construction.
2. Expansion of existing facilities.
3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.
4. No parking lot shall be exempted from these regulations; unless previously exempted.

Section 7.17 Wind Energy Systems

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

- 7.16.01. The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances, figured according to the size of the largest rotor.
- 7.16.02. The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
- 7.16.03. To limit climbing access to the tower, a fence six feet (6') high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve feet (12') from the ground, or the tower may be mounted on a roof top.
- 7.16.04. The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:
- 7.16.05. **SETBACK TABLE**
- | <u>Rotor Diameter</u> | <u>Setback Distance</u> | <u>Minimum Lot Area¹</u> |
|-----------------------|-------------------------|-------------------------------------|
| 5 feet | 100 feet | 1.0 Acre |
| 10 feet | 165 feet | 2.5 Acres |
| 15 feet | 220 feet | 4.5 Acres |
| 20 feet | 270 feet | 6.75 Acres |
| 25 feet | 310 feet | 9.0 Acres |
| 30 feet | 340 feet | 10.75 Acres |
| 35 feet | 365 feet | 12.25 Acres |
1. Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.
- 7.16.06. Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.¹
- 7.16.07. The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

¹ U.S. Department of Energy – EPRI Wind Turbine Verification Program
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304

ARTICLE 8: FLOOD PLAIN REGULATIONS**Section 8.01 Statutory Authorization, Findings of Fact and Purposes****8.01.01 Statutory Authorization**

The Legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare.

8.01.02 Findings of Fact**1. Flood Losses Resulting From Periodic Inundation**

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

2. General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

8.01.03 Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 8.01.02 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses, which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

Section 8.02 Local Administrator Responsibilities

The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and all other Ordinances of the City of Pierce now in force or hereafter adopted, related to zoning, subdivision or building codes.

Section 8.03 Local Administrator Additional Responsibilities

The zoning administrator shall be appointed to these additional responsibilities by resolution of the Governing Body and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the zoning administrator, the Governing Body of the City of Pierce shall designate an acting administrator.

Section 8.04 Designation of Current FHBM/FIRM

The Governing Body of the City of Pierce hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map dated September 5, 1985 and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.

Section 8.05 Permits Required

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this ordinance.

Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

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

1. Identify and describe the development to be covered by the floodplain development permit for which application is made.
2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
3. Indicate the use or occupancy for which the proposed development is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the zoning administrator.
7. Give such other information as reasonably may be required by the zoning administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

Section 8.06 Development Permit Applications Review

The zoning administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law.

Section 8.07 All Applications Review (See Section 8.21)

The Zoning Administrator in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 8.21 of this Ordinance) will:

8.07.01 Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:

1. That until a floodway has been designated - No development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one (1) foot at any location.
2. Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
3. Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this section are satisfied. Such certification shall be provided to the local administrator.

4. Require for all new construction and substantial improvements - That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 8.07.02. Require the use of construction materials that are resistant to flood damage.
- 8.07.03. Require the use of construction methods and practices that will minimize flood damage.
- 8.07.04. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 8.07.05. New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 8.07.06. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
- 8.07.07. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
- 8.07.08. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.
- 8.07.09. All components of the anchoring system be capable of carrying a force of 4,800 pounds.
- 8.07.010. Any additions to manufactured homes be similarly anchored.
- 8.07.011. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "*substantial damage*" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 8.07.06.
- 8.07.012. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of Section 8.07.07 be elevated so that either:
 1. The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 8.07.06.
- 8.07.013. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section 8.08 Subdivision Applications

The Governing Body of the City shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

- 8.08.01. All such proposed developments are consistent with the need to minimize flood damage.
- 8.08.02. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
- 8.08.03. Adequate drainage is provided so as to reduce exposure to flood hazards.
- 8.08.04. All public utilities and facilities are located so as to minimize or eliminate flood damage.

Section 8.09 Water and Sewage Systems

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

Section 8.10 Storage of Material and Equipment

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

Section 8.11 Flood Carrying Capacity within any watercourse

The Governing Body of the City will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Department of Natural Resources) prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the City will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

Section 8.12 Variance Procedures

- 8.12.01 The Board of Adjustment as established by the City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 8.12.02 The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- 8.12.03 Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.
- 8.12.04 In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and;
 - 1. the danger that materials may be swept onto other lands to the injury of others;
 - 2. the danger to life and property due to flooding or erosion damage;
 - 3. the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 4. the importance of the services provided by the proposed facility to the community;
 - 5. the necessity to the facility of a waterfront location, where applicable;
 - 6. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 7. the compatibility of the proposed use with existing and anticipated development;

8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. the safety of access to the property in times of flood for ordinary and emergency vehicles.
10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
11. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

8.12.05 Conditions for Variances

1. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (12.52-12.55 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
5. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

Section 8.13 Non-Conforming Use

- 8.13.01 A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
1. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
 2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- 8.13.02 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 8.14 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements

shall upon conviction thereof be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Pierce or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 8.15 Abrogation and Greater Restrictions

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

Section 8.16 Interpretation

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

Section 8.17 Warning and Disclaimer of Liability

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

Section 8.18 Severeability

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

Section 8.19 Appeals

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Appeals.

Section 8.20 Conflicting Ordinances

This ordinance shall take precedence over conflicting Ordinances or parts of Ordinances. The Governing Body of the City of Pierce may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

Section 8.21 Definitions

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

- 8.21.01 **Base Flood** means the flood having one percent chance of being equaled or exceeded in any given year.
- 8.21.02 **Basement** means any area of the building having its floor subgrade (below ground level) on all sides.
- 8.21.03 **Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

- 8.21.04 **Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
- 8.21.05 **Expansion of Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 8.21.06 **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation of runoff of surface waters from any source.
- 8.21.07 **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.
- 8.21.08 **Floodplain** means any land area susceptible to being inundated by water from any source (see definition of "flooding").
- 8.21.09 **Floodproofing** means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 8.21.010 **Floodway** means the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 8.21.011 **Historic Structure** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
- 8.21.012 **Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 8.21.013 **Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- 8.21.014 **Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

- 8.21.015 **New Construction** For floodplain management purposes, "new construction" means structures for which the "start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 8.21.016 **New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- 8.21.017 **100-Year Flood** means the condition of flooding having a one percent chance of annual occurrence.
- 8.21.018 **Principally Above Ground** means that at least 51 percent of the actual cash value of the structure is above ground.
- 8.21.019 **Recreational Vehicle** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 8.21.020 **Regulatory Flood Elevation** means the water surface elevation of the 100-year flood.
- 8.21.021 **Special Flood Hazard Area** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
- 8.21.022 **Start of Construction** [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the zoning permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
- 8.21.023 **Structure** means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
- 8.21.024 **Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 8.21.025 **Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

8.21.026 **Variance** means a grant of relief to a person from the terms of a floodplain management ordinance.

8.21.027 **Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE 9: BOARD OF ADJUSTMENT

Section 9.01 Members, Terms and Meetings

Pursuant to Section §19-908, Neb. Rev. Stat. (in full): The board of adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the board of adjustment shall be appointed from the membership of the planning commission, and the loss of membership on the planning commission by such member shall also result in his or her immediate loss of membership on the board of adjustment and the appointment of another planning commissioner to the board of adjustment. After September 9, 1995, the first vacancy occurring on the board of adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the board of adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Sections §19-901 to §19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Section 9.02 Appeals to Board, Record of Appeal, Hearings and Stays

As provided in Section §19-909, Neb. Rev. Stat. (in full): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

Section 9.03 Powers and Jurisdiction on Appeal

The Board of Adjustment shall have the following powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; (2) to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and (3) to grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

No such variance shall be authorized by the Board unless it finds that:

- a. The strict application of the Ordinance would produce undue hardship;
- b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- c. the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- d. the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

Section 9.04 Appeals to District Court

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal pursuant to Neb. Rev. Stat. §19-912, (R.R.S.1997).

ARTICLE 10: AMENDMENTS**Section 10.01 Amendments**

Pursuant to Section §19-905 Neb. Rev. Stat. (in full): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all members of the City Council. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1 1/2) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100). The provisions of this section in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

Section 10.02 Planning Commission Review

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 10.01. At the time that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission, there shall be deposited the sum set in Article 4, Section 4.23 as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
- 10.02. An application for a change of district to an Light Industrial District shall contain a minimum area of five 10,000 square feet. The area, if more than one (1) parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- 10.03. The foregoing requirements in Subsection b shall not apply in the case of an extension of a Light Industrial District.

Section 10.03 Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by a Zoning Enforcement Administrator appointed by the City Council, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

Section 10.04 Zoning Permits

The following shall apply to all new construction and all applicable renovations and remodels within Pierce's zoning jurisdiction:

- 10.04.01. It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a zoning permit for such work.

10.04.02 Issuance of a zoning permit. In applying to the Zoning Administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. Applicant shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A zoning permit shall become void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

Section 10.05 Penalties

Pursuant to Section 19-913, Reissue Revised Statutes of 1943 (in full), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

Section 10.06 Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Sections 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 11: COMPREHENSIVE PLAN RELATIONSHIP

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

ARTICLE 12: LEGAL STATUS PROVISIONS

Section 12.01 Separability

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 12.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 12.03 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 12.04 Effective Date

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