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CHAPTER 10 – MUNICIPAL PLANNING

Article 1 – Zoning Regulations; General Provisions

(Ord. No. 185, 6/17/69)

SECTION 10-101: PURPOSE OF REGULATIONS; ZONING MAPS

A. These regulations shall be designated as "Zoning Regulations for the City of Indianola". These regulations were created in accordance with the City's comprehensive development plan, designated to accommodate and anticipate long-range future growth based upon population and economic projections for the community. These Zoning Regulations shall regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes in Indianola and an area extending up to one mile from the corporate limits thereof; to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in the aforementioned area; to divide the said area into zoning districts and provide for the boundaries of said districts and the manner in which said districts shall be determined, established and enforced, and from time to time amended, supplemented or changed; by making certain exceptions; by creating the office of zoning administrator and the Board of Adjustment; by providing for the enforcement of and the penalties for the violations of any of its provisions; for the purpose of promoting health, safety, morals, and general welfare of the community.

B. The City has a Zoning Map and an Extraterritorial Jurisdiction Zoning Map for the purpose of dividing the City's jurisdiction into zoning districts.
(Am. Ord. No. 502, 9/18/17)

SECTION 10-102: EXISTING NONCONFORMING USES EXEMPT

A. The lawful use of land existing at the time of the passage of this article may be continued even though such use does not conform to the provisions hereof; but if such non-conforming use is discontinued in fact for six months or more, any future use of said land shall be in conformity with the provisions of this article.

B. The lawful use of a building existing at the time of the passage of this article may be continued even though such use does not conform with the provisions hereof. Such use may be extended throughout the building provided no structural alterations, except those required by law or ordinance, are made therein. If such non-conforming building is removed, every future use of such land shall be in conformity with the provisions of this article.

C. The foregoing provisions shall also apply to non-conforming uses in districts

hereafter changed.

SECTION 10-103: RESTORATION OF NONCONFORMING USES

Nothing in this article shall be deemed to prevent the restoration or use of a building destroyed to the extent of not more than 65% of its reasonable value by casualty.

SECTION 10-104: AMENDMENTS

After a public hearing of which at least 15 days' prior notice has been given, the City Council may amend, supplement, change, modify, or repeal the boundaries or regulations herein or subsequently established, after submitting same to the Planning Commission for its recommendations and report. The commission shall be allowed 30 days to review the proposed change and if it fails to submit a report after that time, it shall be deemed to have approved the proposed amendment.

SECTION 10-105: DEFINITION OF TERMS

For the purpose of this article and code, the following words and phrases shall have the meaning respectively ascribed to them in this section:

"Kennel" shall mean any lot or building, whether commercial or non-commercial, location or site on which more than two dogs over three months of age are kept housed or boarded.

"Kennel, unlawful" shall mean it is unlawful for any person to operate a kennel, as defined herein, within the city limits.

"Person" shall mean any natural person, partnership, corporation or any other legal entity or individual.

(Ord. No. 359, 10/15/90)

Article 2 – Zoning Regulations; Districts

SECTION 10-201: USE

The City is hereby divided into four districts, designated as follows:

- R-1 Residential District
- C-1 Commercial District
- I-1 Industrial District
- A-1 Agricultural District

SECTION 10-202: BOUNDARIES

A. The provisions of this ordinance shall apply within the corporate limits of the City and within the territory beyond said corporate limits, as now or hereafter fixed, for a distance of 1 mile in all directions.

B. District boundaries are shown on the official zoning map of the City of Indianola, said map being as much a part of this ordinance as if fully described herein. Where uncertainty exists as to boundaries, the following rules shall apply:

1. Where districts are bounded approximately by street or alley lines, the centerlines of streets or alleys shall be construed to be the boundaries.
2. Where districts are bounded approximately by lot lines, said lot lines shall be construed to be the boundaries.
3. Where bounded approximately by streets, alleys, or lots, boundaries shall be determined by the use of the scale contained on said map.
4. Whenever any street, alley, or other public way is officially vacated, the zoning district on either side shall be automatically extended to the centerline of said vacation.

SECTION 10-203: REGULATIONS

Except as hereinafter provided, no building shall be erected, moved, converted, reconstructed, or enlarged nor shall any building or land be used except in conformance with the provisions of this ordinance. No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this ordinance nor shall any required front yard have any building placed within it nor shall any required yard or open space be considered as providing yard or open space for any other building.

SECTION 10-204: R-1 RESIDENTIAL

A. *Permitted Uses.* Within the R-1 Residential District, buildings, structures, and land shall be used for the following purposes:

1. Dwellings, single-family and two-family.
2. Places of worship and community centers.
3. Public elementary and secondary schools and other equivalent educational institutions.
4. Public buildings and open spaces.
5. Home occupations or professions.
6. Hospitals.
7. Accessory buildings and private garages, according to the following provisions: (a) detached building when located more than 60 feet from the front lot line; (b) structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear setback regulations.
8. Convalescent and nursing homes.
9. Necessary public utilities.
10. Golf courses, not including miniature courses or practice-driving tees, and non-commercial recreational uses
11. Apartments and rooming houses.

B. *Special Exceptions.* The Board of Adjustment may authorize the following special exceptions in the R-1 Residential District:

1. Signs and billboards, provided they conform to the following standards: (a) a sign or billboard must pertain to the particular business conducted on the premises; (b) no sign or group of signs shall have an aggregate area of more than 6 square feet; (c) no signs shall be reflectorized or illuminated by flashing or intermittent illumination; (d) no sign shall be within 20 feet of a public street.
2. Cemeteries, funeral homes, and mortuaries.
3. Clinics, but not veterinary clinics.
4. Non-profit social organizations.
5. Rental storage buildings.
6. Fencing height.

C. *Height, Area and Yard Regulations.* The height of buildings or structures, the minimum dimensions of yards, and the minimum lot area per family shall be as follows in the R-1 Residential District:

1. No building or structure hereafter erected or structurally altered shall exceed 45 feet in height except as a special exception.
2. There shall be a front yard having a depth of not less than 20 feet to the

front line of the building and not less than 10 feet to the front line of an open porch or paved terrace with said measurement to be determined by review of the City's plat map, on file at the city office and available for review upon request, and said starting point for each measurement to be the centerline of each street directly adjacent to the front of the residential property according to the plat map and thence measuring one-half the distance of the street from the centerline referenced in the plat map to the front of the adjacent residential property. (Am. by Ord. No. 487, 10/15/12)

3. There shall be a rear yard having a depth of not less than 20 feet, measured from the alley right-of-way or the utility easement line, whichever is applicable.
4. There shall be a side yard on each side of a building, with a width of not less than 10% of the average width of the lot; the side yard need not exceed a distance represented by 10% of the average lot width from the foundation or 7% of the average lot width from the eave or roof line, whichever is greater. In the case of a reversed corner lot that faces an intersecting street, the side yard on the street side shall be increased from 10% of the width of the lot to 50% of the front yard required on the lots in the rear of the yard, provided that this shall not reduce the buildable width of a lot on record at the date of passage of this ordinance to less than 28 feet and provided further, no accessory building on a reversed corner lot shall project beyond the front yard line of the lots in the rear.
5. Every single-family dwelling hereafter erected shall provide a lot area of not less than 6,000 square feet.
6. Every two-family dwelling hereafter erected or structurally altered shall provide a lot area of not less than 10,000 square feet.
7. Every boarding or rooming house hereafter erected or structurally altered shall provide, in addition to 10,000 square feet, an additional 600 square feet per rooming unit.

D. *Parking.* In the R-1 Residential District, uses shall observe the parking requirements prescribed in Article Three of this ordinance.

E. *Screening.* In the R-1 Residential District, fences, walls, and solid-screen plantings located within a front or side yard shall not exceed a height of 3 feet above grade from the back of the principal structure (extended) to the front of the property. Chain-link fences without vegetation obstructing the view shall not exceed 7 feet. Fences, walls, and solid-screen plantings located on a rear yard shall not exceed 7 feet above grade from the back of the principal structure to the alley right-of-way or utility easement.

(Am. by Ord. Nos. 415, 3/17/98; 438, 9/18/00)

SECTION 10-205: C-1 COMMERCIAL DISTRICT

A. *Permitted Uses.* Within the C-1 Commercial District, buildings, structures, and land may be used for any purpose except for the following:

1. Bulk storage of petroleum products, grain, or chemicals, except for underground storage of petroleum products intended for retail sale on the premises.
2. Any use involving the manufacture or the mechanical or chemical transformation of any item not principally intended for retail sale on the premises.
3. Any use involving the keeping of animals, including stables, kennels, livestock, slaughter or packing houses or feed lots.
4. Those uses that may be obnoxious or offensive by reason of the emission of odor, dust, smoke, gas, noise, vibration, or glare.

B. *Height, Area, and Yard Regulations.* In the C-1 Commercial District, the height of buildings and the minimum dimensions of yards shall be as follows:

1. No structure hereafter erected or structurally altered shall exceed 45 feet in height, except as permitted by special exception.
2. The front yard shall extend back 20 feet from the right-of-way line.
3. No rear yard shall be required.
4. There shall be a 20-foot side yard on all corner lots. No other side yard shall be required except on that side of a lot abutting upon the side of a lot zoned R-1 or R-2 Residential, in which case there shall be a side yard of not less than 8 feet. Where a reversed corner lot rears upon a lot zoned for dwelling purposes, the side yard on the street side of the reversed corner lot shall be the same as required in the Residential District. In all other cases, a side yard shall not be required but if provided, it shall be not less than 5 feet.

C. *Parking and Loading.* In the C-1 Commercial District, non-agricultural uses shall observe the parking and loading requirements prescribed in Article Three of this ordinance.

SECTION 10-206: I-1 INDUSTRIAL DISTRICT

A. *Permitted Uses.* Within the I-1 Industrial District, buildings, structure, and land may be used for any purpose except for one or more of the following:

1. Those uses that may be obnoxious or offensive by reason of the emis-

sion of odor, dust, smoke, gas, noise, vibration, or glare.

2. Residences.

B. Height, Area, and Yard Regulations. In the I-1 Industrial District, the height of buildings, the minimum dimensions of yards, and the minimum lot area per building shall be as follows:

1. No building hereafter erected or structurally altered shall be more than 45 feet in height, except as permitted by special exception.
2. No building hereafter erected or structurally altered shall be so located that the front line of the building is less than 50 feet from the nearest point of a street line.
3. No rear yard required of nonresidential buildings in the I-1 Industrial District.
4. A side yard shall not be required but if provided, it shall be not less than 5 feet.

C. Parking and Loading. In the I-1 Industrial District, uses shall observe the parking and loading requirements prescribed in Article Three of this ordinance.

SECTION 10-207: A-1 AGRICULTURAL DISTRICT

A. Permitted Uses. In the A-1 Agricultural District, buildings, structures and land shall be used only for the following purposes:

1. Agricultural uses including farming, livestock raising, greenhouses, truck gardens, machine and engine shops and other agricultural activities commonly required for the operation of a farm or ranch.
2. Seed and feed sales. (Ord. No. 514, 12/30/20)
3. Livestock feedlots for the temporary or permanent holding of large numbers of livestock and comprising a holding facility in a fixed location, sale barns, kennels, and veterinary establishments, but not nearer than 1,000 feet to any zoned residential district, incorporated area or dwelling, other than the dwelling of the lessee or owner of the site.
4. Single-family and two-family dwellings and motels.
5. Customary home occupations.
6. Public buildings and publicly owned parks, playgrounds, community centers and fairgrounds or carnival.
7. No signs intended to be read from off the premises shall be permitted ex-

cept:

- a. Identification signs and bulletin boards, provided that such signs or boards do not exceed 16 square feet in area and are erected upon the premises of a charitable, religious, educational or public institution for its own use and are not erected within 25 feet of any street line.
- b. One non-illuminated sign identifying the use of the building, structure or premises, not to exceed 8 square feet in area.
- c. One billboard or grouping of billboards not to exceed 500 square feet in aggregate, including trim, with each such billboard grouping to be located no closer than 1,000 feet of another, regardless of which side of the roadway.

B. The Board of Adjustment may authorize the following special exceptions.

1. Churches, Sunday schools, and other places of worship.
2. Private clubs, private lodges and private, social or commercial recreational areas.
3. Entertainment facilities or grounds for games and sports.
4. Campgrounds.
5. Hospitals and convalescent or nursing homes.
6. Cemeteries.
7. Airports, aircraft landing fields or radio or television transmitter stations.
8. Facilities for the distribution and/or treatment of water, sewerage, gas, electricity, or other necessary public utilities.
9. Sand, gravel and mineral extraction, processing and storage.
10. Automotive wrecking, salvage, and junk yards and establishments or use areas conducting vehicle maintenance or storage activities of a heavier nature than gasoline service stations.
11. General vehicle garage repairs, provided that such establishment or use area is enclosed by a solid fence or vegetative screening of at least 8 feet in height and is not located closer than 1,000 feet to any residential district, incorporated area, or dwelling other than the dwelling of the lessee or owner of the site.

Article 4 – Zoning Regulations; Enforcement

SECTION 10-401: BOARD OF ADJUSTMENT CREATED

In compliance with the provisions of Neb. Rev. Stat. Article 9, Chapter 19, a Board of Adjustment is hereby established which shall consist of five members appointed by the mayor, subject to confirmation by the City Council. Members shall serve without compensation. The Board of Adjustment shall adopt such rules and procedures as it may deem necessary to carry into effect the provisions of this ordinance.

SECTION 10-402: SPECIAL EXCEPTIONS

The Board of Adjustment shall grant or refuse special exceptions with whatever conditions it shall find appropriate but only under the terms of this ordinance.

SECTION 10-403: VARIANCE

The Board of Adjustment may authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship.

SECTION 10-404: LEGAL PROCEDURE

In the event that there is any violation of this ordinance, the proper authorities of the City may institute appropriate action to correct said violation.

SECTION 10-405: PENALTIES

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than \$100.00 for each offense. Each day that a violation is permitted to exist beyond the time designated in the written notification by the administrative officer shall constitute a separate offense.

SECTION 10-406: CONFLICTS

This ordinance hereby repeals any or all ordinances inconsistent herewith that have been previously enacted.

SECTION 10-407: SEPARABILITY

Should any article, section, clause, or provision of this ordinance be declared by the court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 10-408: EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage as provided by law.

Article 5 – Subdivisions; General Provisions

(Ord. No. 186, 6/17/69)

SECTION 10-501: AUTHORITY AND ENACTMENT

By the authority of Neb. Rev. Stat. Chapter 17, Article 10, §17-1001 to 17-1003, the City does hereby enact into law the following articles and sections.

SECTION 10-502: JURISDICTION

These regulations shall apply to all lands located within the corporate limits and all land lying within one mile of the corporate limits of the City.

SECTION 10-503: POWERS

Every owner of any lot, tract, or parcel of land within the corporate limits or within one mile of the corporate limits who may hereafter subdivide the same into two or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development shall submit a subdivision plat to the Indianola Planning Commission in accordance with the provisions set out herein.

Article 6 – Subdivisions; Procedure

SECTION 10-601: PRE-APPLICATION

Prior to the subdivision of any land, the subdivider or his agent shall discuss informally with the Planning Commission the proposed subdivision with reference to these subdivision regulations, the zoning ordinance, the comprehensive plan, and the major street plan.

SECTION 10-602: PRELIMINARY APPLICATION; FEE

The subdivider shall pay to the city clerk a preliminary application fee, as set by the City Council, before application.

SECTION 10-603: PRELIMINARY APPLICATION; REQUIREMENTS

The subdivider shall prepare and submit to the Planning Commission the following:

A. Four copies of the preliminary plat at a scale of not less than one inch to 200 feet. In the case of subdivisions outside of the corporate limits, one additional preliminary plat submittal will be required and will be referred to the county recorder. All preliminary submittals shall be in conformance with the design standards set forth in Article 7 herein and shall include or be accompanied by the following information:

1. Receipt for preliminary platting fee.
2. Proposed name of the subdivision, which shall not duplicate previously filed plat names.
3. A date, scale, north point, and key map showing the general location of the proposed subdivision in relation to surrounding development.
4. Names and addresses of the developer, engineer, surveyor, or landscape architect responsible for the survey or design.
5. Location of boundary lines in relation to section or quarter section lines, including a legal description of the property.
6. Existing contours wherever 5 feet of deviation occurs.
7. Location, width, and name of existing or platted streets and alleys, railroads, utilities, rights of way or easements, parks, and existing structures within the proposed subdivision and their relationship to the same in adjacent subdivisions.
8. Existing and proposed zoning and existing and proposed land use.

9. Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other suitable sanitary disposal systems, water supply, pavement, sidewalks, drainage ways, and other required improvements.
10. Written and signed statements by the appropriate officials obtained by the developer, ascertaining the availability of gas, electricity, and water to the proposed subdivision.
11. Layout, numbers, and approximate dimensions of lots and the number of each block.

B. After receipt of the preliminary plat applications, the Planning Commission shall distribute said applications to the appropriate officials, who shall examine the proposed plat in terms of compliance with all laws, regulations, and codes of the City. The findings of the examinations shall be returned to the commission within 15 days.

C. The commission members, upon receipt of the examination findings, shall approve or disapprove the preliminary plat application at the time of their next regularly scheduled meeting. Approval of the preliminary plat by the commission shall be void at the end of six months unless a final plat has been submitted.

D. Upon approval of the preliminary plat by the commission, the subdivider may proceed with the preparation of the final plat.

SECTION 10-604: FINAL APPLICATION; FEE

The subdivider shall pay to the city clerk a final application fee after preliminary approval and before final application. The fee shall be as set by the City Council per acre for all parcels or lots larger than one acre in size.

SECTION 10-605: FINAL APPLICATION; REQUIREMENTS

The subdivider shall prepare and submit to the Planning Commission the following, prepared by an engineer or land surveyor registered in the State of Nebraska:

A. Eight copies of the final plat at a scale of not less than one inch to 200 feet. All final plat submittals shall be in conformance with the design standards set forth in Article 7 herein and shall include or be accompanied by the following information, in addition to that already submitted on the preliminary application:

1. The exact location and layout of lots, streets, alleys, easements, and other public ground with accurate dimensions in feet and decimals of feet, interior angles, length of radii and/or arcs of all curves, together with the names of all streets.

2. Location and description of all monuments.
3. Location by section, township, range, county, and state, including descriptive boundaries of the subdivision, based on an accurate traverse giving angular and linear dimensions.
4. Notarized certificate signed and acknowledged by all parties having any titled interest in or lien upon the land subdivided consenting to the plat, including dedication of all streets, alleys and public ways, parks or other public grounds, or lands for charitable, religious, or educational purposes, if any, and granting easements.
5. Certificate signed by the county treasurer stating that there are no regular or special taxes due or delinquent against the property described in the plat.
6. Certificate signed by the county or city engineer approving the plat.
7. One copy of any private restriction or covenant affecting the subdivision or any part thereof.

B. Upon submission of all final application requirements, the Planning Commission shall approve or disapprove the final plat within 30 days and send its recommendation to the City Council.

C. The council, upon receipt of the Planning Commission's recommendation, shall immediately notify all owners of property adjacent to the proposed subdivision. The council shall then allow 60 days for discussion of the proposal. At the expiration of the 60-day period of time, the council shall render final approval or disapproval of the plat.

D. Approval of the final plat by the City Council shall be deemed as certification of the final plat. With this certification, the council shall forward a copy of the final plat to the register of deeds of Red Willow County for recording.

E. Receipt of a duly certified final plat by the subdivider is authorization that he may precede with the subdivision. However, no lot(s) shall be sold unless either installation and construction of required improvements have been made or the installation and construction of said improvements are a condition of sale for the subdivided lot(s).

Article 3 – Zoning Regulations; Parking

SECTION 10-301: OFF-STREET PARKING REQUIRED

Off-street parking spaces shall be provided and maintained in satisfactory condition by the property owner for each building hereafter erected, enlarged, or altered in any use district in accordance with the following minimum requirements for land use types:

A. Residential units:

1. For each dwelling unit, one space.
2. For any hotel, motel, rooming and boarding house, or similar use or establishment, one space for each guest room.

B. For any hospital, sanitarium, convalescent home, or other similar use or establishment, one space for each one bed.

C. Places of assembly and entertainment:

1. For any general auditorium, gymnasium, church, school, stadium, theater, or other similar place of assembly, one space for each five seats.
2. For any meeting, exhibition, or entertainment hall, labor temple, lodge hall, or other assembly hall without fixed seats, one space without fixed seats, one space for each two hundred fifty square feet of gross floor area.

D. For offices in any bank, clinic, funeral home, business, professional office, welfare institution, or any other similar use or establishment, one parking space for each 400 square feet of gross floor area.

E. For any eating or drinking establishment or any similar use, one space for each 250 feet of gross floor area.

F. For any retail store, one parking space for each 600 square feet of gross floor area, except in the C-1 Commercial District where assured provision is made for adequate parking.

G. Miscellaneous personal and business service uses.

1. For any use providing personal, entertainment, or business service, except automotive service, one space for each 200 square feet of gross floor area.
2. For any automotive repair, service, or maintenance facility, including service stations and car washing establishments, three spaces for each bay.

H. Production, processing, and storage uses.

1. For any manufacturing, processing, or production establishment, one space for each two employees on the maximum working shift.
2. For any wholesaling, warehousing, or storage building, two parking spaces plus one parking space for each 800 square feet of floor area above 2,000 square feet.

SECTION 10-302: UNLISTED AND MIXED USES

A. In case any proposed use is not listed herein, the parking requirements for the most similar listed use shall apply.

B. In case of mixed uses in the same building, total parking requirements shall be the sum of the requirements for the separate uses.

SECTION 10-303: COLLECTIVE PARKING FACILITIES

Nothing in this article shall be construed to prevent the collective provision of any off-street parking facility for two or more buildings or use.

SECTION 10-304: OFF-STREET LOADING

On the same premises with every building or part thereof hereafter erected, established, or enlarged and occupied in such a way as to involve the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley.

Article 7 – Subdivisions; Design Standards

SECTION 10-701: GENERALLY

Land within the proposed subdivision which the Planning Commission finds to be unsuitable for subdividing due to flooding or bad drainage shall not be subdivided until the objectionable features have been eliminated or until adequate safeguards against such objectionable features are provided.

SECTION 10-702: STREETS AND ALLEYS

A. The arrangement of major streets shall conform to the circulation section of the comprehensive plan on file in the office of the city clerk. Streets in the subdivision normally shall connect with streets already dedicated in adjoining or adjacent subdivisions.

B. Minor residential streets should be planned as to discourage through traffic. Permitted cul-de-sacs shall not be longer than 400 feet and shall terminate with a turn-around having a curb line diameter of not less than 80 feet.

C. Centerline off-sets of intersecting streets shall be avoided but where necessary shall be not less than 150 feet.

D. Blocks in residential subdivisions shall be not less than 300 feet long and not more than 1,200 feet long, except as allowed by the Planning Commission and City Council.

E. Half streets shall be prohibited except where essential to the reasonable development of the subdivision or where it is found to be practical to require the dedication of the other half when adjoining property is subdivided.

F. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. More than four approaches to any intersection shall be prohibited.

G. Alleys shall be provided in commercial and industrial districts except where other definite and assured provision is made for service access.

H. The horizontal alignment on all streets where the centerline deflects 2° or more shall be as follows:

<i>Radii of Horizontal Curves</i>	
Major streets	700' minimum
Minor streets	100' minimum

I. The right of way widths and pavement widths (back to back of curb) for interior streets and alleys included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<i>Type</i>	<i>Pavement Width</i>	<i>R.O.W.</i>
Major streets	46 inches	80 feet
Minor streets	35 inches	60 feet
Alleys	14 feet, residential	20 feet
	20 feet, commercial	

SECTION 10-703: LOTS

A. Side lot lines shall be approximately at right angles to straight street lines or radial to curved street lines.

B. Every lot shall abut and have access to a public street.

C. Double frontage lots shall be avoided except where they back upon a major street.

SECTION 10-704: EASEMENTS

A. Easements on rear or side lot lines shall be provided for sanitary sewers where necessary and shall be a total of at least 10 feet wide.

B. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right of way of such width as will be adequate for both water flow and maintenance operations.

Article 8 – Subdivisions; Improvements

SECTION 10-801: REQUIREMENTS

It shall be the responsibility of the developer to install in accordance with plans, specifications, and data approved by the city engineer certain required improvements as follows:

A. The external boundaries and corners of each block and lot shall be indicated by iron rods, pipes, or pins not less than one inch in diameter and extending at least 24 inches below grade.

B. All full width streets located entirely within the boundary of the subdivision, except major and collector streets, shall be graded to a minimum width of 9 feet back of both curb lines to within 6 inches of the grade established by the city engineer.

C. The streets shall be paved, including curbs and gutters, in accordance with street improvement and paving standards and regulations approved by the City Council.

D. Sidewalks 4 feet wide shall be constructed in accordance with sidewalk standards and regulations approved by the City Council in front of all lots or, in lieu thereof, the developer may provide in recorded covenants that such sidewalks shall be constructed by the owner of each lot prior to the time of completion of the main structure on said lot.

E. Where a city sanitary sewer is accessible by gravity flow within 500 feet of the final plat, the subdivider shall submit to the city engineer his plans for connection with a trunk line to the existing system. The city engineer shall then inform the subdivider of the trunk line size requirements as per anticipated development in the general area. Where a city sanitary sewer is not accessible by gravity flow within 500 feet of the final plat, the subdivider shall make provision for the disposal of sewerage as required by law. Where a city sanitary sewer accessible by gravity connection is not within 500 feet of the final plat but where plans for the installation of city sanitary sewers within such proximity to the plat have been prepared and construction will commence within 12 months from the date of the approval of the plat, the subdivider shall be required to install sewers in conformity with such plans.

F. Where a public water supply is within 500 feet of a proposed subdivision, the subdivider shall install or have installed a connection to each lot prior to the paving of the street, as according to the city engineer's requirements for anticipated development. Where a public water supply is not available, each lot in a subdivision shall be furnished with a water supply system with proper provisions for the maintenance thereof. Any lot so serviced shall have a minimum area of one-half acre. The design of any such system shall be subject to the approval of the State Department of Health or county health officer, whichever is applicable.

Article 9 – Subdivisions; Enforcement

SECTION 10-901: FILING

A. No plat of any subdivision within the application of this ordinance shall be entitled to be filed or recorded in the office of the register of deeds or have any validity until such plat has been prepared, approved, and acknowledged in the manner prescribed by this ordinance.

B. It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land for building purposes as a part of or in conformity with any plat, plan, or replat of any subdivision within the area subject to application of this ordinance unless said plan, plat, or replat shall have been approved as prescribed by this ordinance and filed and recorded in the office of the register of deeds.

SECTION 10-902: PENALTY

Any person, firm, co-partnership, association, or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed six months, or both, in the discretion of the Court. The sale of each and every lot sold in violation of this ordinance shall be considered a separate violation.

SECTION 10-903: VALIDITY

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

SECTION 10-904: CONFLICT WITH OTHER REGULATIONS

No final plat of land within the force and effect of the zoning ordinance shall be approved unless it conforms to these regulations. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning ordinance, building code, or other official regulations or ordinances, the most restrictive shall apply.

SECTION 10-905: REPEAL OF CONFLICTING ORDINANCES

All subdivision regulations and parts of subdivision regulations in conflict with this ordinance are hereby repealed.

Article 5 – Group Homes

(Ord. No. 282, 10/20/80)

SECTION 10-1001: DEFINED

For the purposes of this article, unless the context otherwise requires, the term "group home" shall mean a facility licensed by the State of Nebraska in which at least four but not more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purposes of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation. (Neb. Rev. Stat. §18-1744)

SECTION 10-1002: ESTABLISHMENT

A group home, as defined in Section 10-1001, may be established and operated in any residential zone within the exercised zoning jurisdiction of the City, except as limited in Section 10-1003. (Neb. Rev. Stat. §18-1745)

SECTION 10-1003: ESTABLISHMENT; EXCEPTIONS

A. Departments and agencies of the state are prohibited from licensing a new group home if it will be within 1,200 feet of an existing group home unless the City Council grants the proposed facility a conditional or special use permit. For purposes of this section, "existing group home" shall include, in addition to group homes defined in Section 10-1001, a home of any size which serves other populations, including but not limited to correctional homes and those which serve people recuperating from the effects of drugs or alcohol, mental illness, or physical disability.

B. The number of group homes established in the City shall be limited according to the population of the City, except that the City Council may issue a variance to allow additional group homes.

<i>City Population</i>	<i>No. of Group Homes</i>
1,000 residents or less	1
More than 1,000 and less than 10,000 residents	1 for every 2,000 residents

(Neb. Rev. Stat. §18-1746, 18-1747)

Article 11 – Floodplain Regulations

(Ord. No. 360, 10/15/01) (Am. by Ord. 485, 10/3/11)

SECTION 10-1101: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

A. *Statutory Authorization.* The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, and general welfare. The Legislature, in Neb. Rev. Stat. §31-1001 to 31-1022, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the city with zoning jurisdiction over the flood-prone area. Therefore, the City of Indianola ordains as follows:

B. *Findings of Fact.*

1. *Flood Losses Resulting from Periodic Inundation.* The flood hazard areas of City 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: (A) the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (B) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
3. *Methods Used to Analyze Flood Hazards.* This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.
 - a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated November 16, 2011 as amended.

- b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- c. Delineation of the floodplain which is subject to inundation by the base flood.

C. *Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in subsection (B)(1) above 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 10-1102: GENERAL PROVISIONS

A. *Lands to Which Ordinance Applies.* This ordinance shall apply to all lands within the jurisdiction of the City of Indianola identified on the Flood Insurance Rate Map (FIRM) dated November 16, 2011, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning District established in Section 10-1104 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Section 10-1105.

B. *The Enforcement Officer.* The City Council is hereby designated as the community's duly designated enforcement officer under this Ordinance.

C. *Rules for Interpretation of District Boundaries.* The boundaries of the floodplain overlay district shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and

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

D. *Compliance.* Within identified special flood hazard areas of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

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

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

G. *Warning and Disclaimer of Liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade 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 the district will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City of Indianola or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

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

I. *Appeal.* Where a request for a permit to develop or a variance is denied by the City, the applicant may apply for such permit or variance directly to the Board of Zoning Appeals.

SECTION 10-1103: DEVELOPMENT PERMIT

A. *Permit Required.* No person, firm, or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first

obtaining a separate permit for development as defined in Section 10-1111.

B. *Administration.* The City Council is hereby appointed to administer and implement the provisions of this ordinance. Duties of the City Council shall include, but not be limited to:

1. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
2. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
3. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
6. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
7. When floodproofing is utilized for a particular structure, the City Council shall be presented certification from a registered professional engineer or architect.

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

1. Identify and describe the development to be covered by the floodplain development permit.
2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.

3. Indicate the use or occupancy for which the proposed development is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the City Council.

SECTION 10-1104: ESTABLISHMENT OF THE FLOODPLAIN ZONING DISTRICT

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district as identified in the Flood Insurance Study land accompanying map(s). Within this district all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

SECTION 10-1105: STANDARDS FOR FLOODPLAIN DEVELOPMENT

A. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this section are satisfied.

B. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodplain data currently available from federal, state or other sources.

C. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than 1 foot at any location as shown on the Flood Insurance Study.

D. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

1. Design or anchorage to prevent flotation, collapse or lateral movement of

the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

E. Storage of Material and Equipment.

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

F. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (1) all such proposals are consistent with the need to minimize flood damage, (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (3) adequate drainage is provided so as to reduce exposure to flood hazards, and (4) proposals for development (including proposals for manufactured home parks and subdivision) of five acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

G. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above 1 foot above the base flood elevation.

H. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above 1 foot

above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the City Council as set forth in Section 10-1103(B)(7).

I. 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 1 square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than 1 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.

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

K. Manufactured Homes

1. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - b. Frame ties are 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;
 - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - d. Any additions to the manufactured home are similarly anchored.

2. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision,
 - b. In a new manufactured home park or subdivision.
 - c. In an expansion to an existing manufactured home park or subdivision, or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above 1 foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection K(1) above.
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of subsection K(2) above be elevated so that either:
 - a. The lowest floor of the manufactured home is at or above 1 foot above the base flood elevation, or
 - b. 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 subsection K(1) above.

L. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (a) be on the site for fewer than 180 consecutive days, (b) be fully licensed and ready for highway use, or (c) 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.

M. Located within the areas of special flood hazard established in Section 10-1102(A) are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:

1. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth

number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- 2 All new construction and substantial improvements of non-residential structures shall:
 - a. Have the lowest floor elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 10-1103(B)(7).
3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

SECTION 10-1106: VARIANCE PROCEDURES

A. The Appeals Board as established by the City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.

B. The Appeals Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Council in the enforcement or administration of this ordinance.

C. Any person aggrieved by the decision of the Appeals Board or any taxpayer may appeal such decision to the District Court as provided in Neb. Rev. Stat. §19-912.

D. In passing upon such applications, the Appeals Board 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 the 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 floodwaters 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.

E. 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 (2) through (5) 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 (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) 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 (a) 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 (b) 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 10-1107: NONCONFORMING USE

A. 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 six consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the City Council in writing of instances of nonconforming uses where utility services have been discontinued for a period of six months.
2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

B. 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% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

SECTION 10-1108: PENALTIES FOR VIOLATION

A. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 and in addition, shall pay all costs and expenses involved in the case. Each day that such violation continues shall be considered a separate offense.

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

SECTION 10-1109: AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. At least 15 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

SECTION 10-1110: PERMIT EXCEPTIONS

Floodplain permits will not be required for planting a garden, landscaping and farming, putting up a mailbox, or erecting a flag pole. Floodplain permits will not be required for routine maintenance such as painting, reroofing, sidewalks or driveways except as otherwise required by state statute or if the value of the maintenance or improvements exceed 50% of the value of the building. However, no building permit for such activity shall be issued if such activity causes a new obstruction to flood plains or alters drainage.

SECTION 10-1111: DEFINITIONS

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

"Appeal" means a request for a review of the City Council's interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Base flood" means the flood having 1% chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an 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).

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters and (2) the usual and rapid accumulation of runoff of surface waters from any source.

"Flood fringe" is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a 1% chance of flood occurrence in any one year).

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

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

"Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodway" or "regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for

purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodplain conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the secretary of the interior or (2) directly by the secretary of the interior in states without approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" for floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"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.

"Overlay district" is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

"Principally above ground" means that at least 51% of the actual cash value of the structure is above ground.

"Recreational vehicle" means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling hut as temporary living quarters for recreational, camping, travel, or seasonal use.

"Special flood hazard area" is the land in the floodplain within a community subject to 1% or greater chance of flooding in any given year.

"Start of construction" [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The "actual start" means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair

work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Article 12 – Penal Provision

SECTION 10-1201: VIOLATION; PENALTY

Any person, whether as owner, proprietor, or as the agent, attorney, or representative of any owner or proprietor of land who shall plat, or subdivide any tract of land within the corporate limits of the City, or adjoining, and contiguous to the same, except as herein authorized, or who shall sell, transfer, deed or convey, contract, or agree to sell, transfer, or offer for sale any lot, or piece of ground in any addition, or subdivision of three, or more parts within said corporate limits, or adjoining, and contiguous thereto, without having first obtained the acceptance, and approval of the plat, or map thereof by the City Council, and any person who shall violate, or who shall fail, neglect, or refuse to comply with any of the provisions hereinbefore, as now existing, or as hereafter amended, shall, upon conviction, be fined in any sum not exceeding \$500.00.