

ZONING REGULATIONS
CITY OF INDIANOLA, NEBRASKA
Project No. 204-G1-001
2017

Prepared By:



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ARTICLE 1: PRELIMINARY PROVISIONS

1-1. TITLE

This Ordinance shall be known as the Zoning Regulations of Indianola, Nebraska and referred to as the "Ordinance".

1-2. CONTENT

This Ordinance includes a map designated as the official Zoning Map of Indianola, Nebraska. This Zoning Map and all notations, references, and other information shown on it are part of this Ordinance and have the same force and effect as if fully set forth in this Ordinance.

1-3. FILING

This Ordinance, together with the Zoning Map which is part of it, is on file in the Office of the County Recorder and a certified copy is on file with the City Clerk.

1-4. AUTHORITY

In pursuance of the authority conferred upon the City Council of the City of Indianola by Chapter 19, Article 9, Section 19-901 of Nebraska Statutes as amended, this Ordinance is enacted for the purpose of promoting public health, safety, comfort, convenience, order, prosperity and general welfare of the present and future inhabitants in the City of Indianola by regulating and restricting the height, number of stories, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes in accordance the Zoning Map adopted herewith.

1-5. INTERPRETATION AND APPLICATION

- A. The provisions of this ordinance may be regarded as the minimum requirements for the promotion of public health, safety, comfort, convenience, order, prosperity and general welfare of the present and future inhabitants in the City of Indianola. This Ordinance is not intended to interfere with or abrogate or annul any easements, covenants or agreements between parties provided; however, that wherever this Ordinance proposes a greater restriction upon use of buildings or land or upon the location or height of buildings or structures or requires larger open spaces about the structures than are imposed or required by other laws, regulations, ordinances, or easements, covenants or agreements between parties, the provisions of this Ordinance shall govern.
- B. Except as hereinafter provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, moved or structurally altered except in conformance with the regulations herein specified for the zoning district in which it is located; nor shall a yard, or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.

1-6. CONFORMITY WITH COMPREHENSIVE PLAN

The purpose of this Ordinance is to implement the Comprehensive Plan for the City of Indianola, Nebraska. All provisions contained in this ordinance are in conformity with the Comprehensive Plan as adopted by the City Council of the City of Indianola.

1-7. VALIDITY

If any part or parts of this Ordinance shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Ordinance. The City Council hereby declares that it would have passed the remaining parts or this Ordinance if it had known that such part or parts thereof would be declared unconstitutional.

1-8. CONFLICTING ORDINANCES REPEALED

Any ordinances or parts of ordinances in conflict herewith are hereby repealed.

1-9. FORCE AND EFFECT

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

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ARTICLE 2: DEFINITIONS

2-1. USAGE

- A. For the purpose of this Ordinance, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section. Words or terms not herein defined shall have their ordinary meaning in relation to the context.
- B. Unless the context clearly indicates to the contrary:
 - 1. Words used in the present tense include the future tense.
 - 2. Words used in the singular include the plural and words used in the plural include the singular.
 - 3. The word "shall" is always mandatory; the word "may" is always permissive.
 - 4. The word "herein" means in this Ordinance.
 - 5. The word "Ordinance" means this zoning document.
 - 6. The word "Council" means the City Council of the City of Indianola, Nebraska.
 - 7. The "Commission" means the Planning Commission appointed by the City Council of the City of Indianola, Nebraska.
 - 8. The "Board of Adjustment" means the Board of Adjustment appointed by the City Council of the City of Indianola, Nebraska.
 - 9. The "Zoning Administrator" means the Zoning Administrator appointed by the City Council of the City of Indianola, Nebraska.
 - 10. The "Flood Plain Administrator" means the Zoning Administrator appointed by the City Council of the City of Indianola, Nebraska.
 - 11. A "person" includes a corporation, partnership, and any incorporated association of persons.
 - 12. A "building" includes a "structure" and a building or structure includes any part thereof.
 - 13. "Used" or "occupied" as applied to any land or building shall be constructed to include the words "intended, changed or designed to be used or occupied."
 - 14. The word "county" means all unincorporated areas throughout Red Willow County, Nebraska.
 - 15. The word "City" means the City of Indianola, Nebraska.
 - 16. The word "jurisdiction" means the jurisdiction of the City within which the City is authorized by Nebraska Revised Statute 17-001 to enforce this Ordinance.

2-2. DEFINITIONS

- A. For the purpose of this Ordinance, certain terms and words used herein shall be used, interpreted, and defined as set forth in this section. Words or terms not herein defined shall have their ordinary meaning in relation to the context.
- B. For the purpose of this Ordinance, the following words and phrases shall have the following meaning:
 - 1. **Abutting.** To touch, border on or be contiguous to.
 - 2. **Abutting Owner.** Two persons or parties having property or district lines in common.
 - 3. **Accessory Building.** A subordinate building which (1) serves a function customarily incidental to that of the main building; (2) is subordinate in area, extent, and purpose to the principal use; and (3) is located on the same lot and in the same zoning district as the principal use.
 - 4. **Accessory Use.** A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel and in the same zoning district as the principal use. A use that contributes to the comfort, convenience, or necessity of the principal use and is subordinate in area, extent, and purpose to the principal use.

5. **Addition.** Any construction which increases the size of the building or structure in terms of site coverage, height, length, width, or gross floor area.
6. **Administrative Subdivision.** (Also, known as Administrative Plat or Minor Subdivision.) Any subdivision that does not result in the creation of more than three (3) lots from any single parcel of land; requires no extension of streets, sewers, utilities, or other municipal facilities; no dedication of easements, rights-of-way, or annexation; complies with all pre-existing zoning requirements; and has not been subject to a previous administrative subdivision.
7. **Adult Use, Adult Entertainment Business.** (1) Any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, an establishment providing nude dancing or other live or recorded performances, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. (2) A business that utilizes a significant portion of its display areas to sell, rent, or lease any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the male or female genitals which predominantly pruriently, shamefully, or morbidly depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse.
8. **Adult Use, Specified Anatomical Areas.** Less than completely and opaquely covered anal region, buttock, female breasts below a point immediately above the top of the areole, human genitals, pubic region, or human male genitals in a discernible turgid state, even if completely and opaquely covered.
9. **Adult Use, Specified Sexual Activities.** (1) Human genitals in a state of sexual stimulation or arousal; or (2) acts of human masturbation, sexual intercourse, or sodomy; (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or (4) excretory functions as part of or in connection with any of the activities set forth above.
10. **Agricultural Use.** A tract of land or a combination of tracts of land utilized primarily for crop production or raising of livestock.
11. **Airport.** Any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, and any appurtenant, areas designated, set aside, used, or intended for use, for airport buildings or other airport facilities, rights-of-way, or approach zones, together with all airport buildings and facilities located thereon.
12. **Alley.** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, and has a right-of-way twenty (20) feet or less in width.
13. **Alteration.** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.

14. **Animal Unit.** The relationship of various animals with regard to manure production based upon one thousand pounds of animal(s) regardless of type. For purposes of this Resolution, the following relationship with regard to manure production shall be as follows:

TYPE OF ANIMAL	ANIMAL UNIT(S)
Beef Animal (500 - 1,200 pounds)	1.00
Beef or Dairy Calf (150-500 pounds)	0.50
Young Dairy Stock (500-1,000 pounds)	0.75
Replacement Heifers	1.00
Dairy Cow	1.40
Horse	2.00
Swine (55 pounds or heavier)	0.40
Swine (less than 55 pounds)	0.04
Swine (sow and litter)	0.50
Sow or Boar	0.40
Sheep	0.10
Chicken	0.01
Turkey	0.02
Ostrich	0.04

15. **Apartment.** A room or suite of rooms in a multiple dwelling or where more than one living unit is established in any building, intended, designed, used or suitable for use by one or more persons as a place of residence with culinary accommodations.
16. **Approving Authority.** The City Council of Indianola, Nebraska or its designee.
17. **Attached.** Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; façade wall extension; or archway.
18. **Base Zoning District.** A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. No more than one (1) Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.
19. **Basement.** That portion of a building having more than one-half of its height below finished grade. This portion shall serve as a substructure or foundation for the remainder of the building.
20. **Bed and Breakfast.** A house or portion thereof where short – term lodging rooms and meals are provided. The operator of the establishment shall live on the premises or in adjacent premises.
21. **Block.** An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse, lake, railroad, or other significant natural or man-made barrier, and which has been designated as such on a plat for the purposes of legal description of a property.
22. **Block Face.** The property abutting one (1) side of a street and lying between the two (2) nearest intersection streets, or between the one (1) nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Indianola.
23. **Board of Adjustment.** That Board which has been created by the Governing Body to hear and determine appeals and variances to the zoning regulations.
24. **Boarding or Lodging House.** A building other than a hotel or motel where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not to exceeding 60 persons.
25. **Bufferyard.** A landscaped area intended to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another.

26. **Building.** An enclosed structure, anchored to a permanent foundation, and having a roof support by columns or walls, intended, designed, used, or suitable for use for the support, enclosure, shelter, or protection of persons, animals, or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure."
27. **Building Coverage.** The area of a site covered by buildings or roofed area, excluding allowed projecting eaves, balconies, and similar features.
28. **Building Envelope.** The net cubic, three (3) dimensional, space that remains for placing a structure on a site after building line, height, and bulk regulations are observed.
29. **Building Height.** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the peak of a gable, hip or gambrel roof.
30. **Building Line.** A building line, parallel or nearly parallel, to either the street line or the lot line not abutting the street, at a specific distance from the front, rear and side boundaries of a lot beyond which a structure cannot lawfully extend.
31. **Building - Main.** A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in the residence district is a main building.
32. **Building Official.** The person or persons designated by the governing body to administer this subdivision ordinance whether such person or persons by entitled Building Official, Building Inspector, Administrative Official, or Zoning Administrator.
33. **Building Permit.** A document that must be issued by the City prior to erecting, constructing, enlarging, altering, moving, improving, removing, converting, or demolishing any building or structure on a platted lot or parcel.
34. **Building Site.** The land area, consisting of one or more lots or parcel of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building or buildings and accessory buildings, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards and open spaces as are required by these regulations.
35. **Business.** Activities that include the exchange or manufacture of goods or services on a site.
36. **Business Center.** A building containing more than one (1) commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.
37. **Campgrounds.** Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles, or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.
38. **Carwash.** An area of land and/or a structure with machine-or-and operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.
39. **Cat.** Feline species over 3 months of age.
40. **Certificate of Occupancy.** An official certificate issued by the City of Indianola, prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Ordinance.
41. **Change of Use.** The replacement of an existing use type by a new use type.
42. **Child Care Center.** A facility which is or should be licensed by the Nebraska Department of Health and Human Services.
43. **Child Care Home.** A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.
44. **Commercial/Utility Wind Energy Systems (Large).** Shall mean a wind energy system of equal to or greater than 100 kW in total generating capacity.

45. **Commercial Venture.** An activity undertaken as a primary means of income or which provides a substantial supplement to a primary income.
46. **Common Area.** An area held, designed, and designated for common or cooperative use within a development.
47. **Common Open Space.** That undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the benefit of the owners of the individual building sites of said development.
48. **Common Sewer System.** A sanitary sewage system in public ownership which provides for the collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental Quality for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.
49. **Common Water System.** A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis which is in public ownership.
50. **Communications Tower.** A tower, pole, or other similar structure that supports a telecommunications antenna or antenna used for the transmission or broadcast of radio, television, radar, or microwaves.
51. **Community Center.** A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreation programs generally open to the public and designed to accommodate and serve significant segments of the community.
52. **Comprehensive Plan.** The long-range development plan adopted by the Indianola City Council.
53. **Conditional Use.** A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare.
54. **Conditional Use Permit.** A permit used to give approval of a conditional use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Conditional uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Planning Commission and City Council.
55. **Condominium.** Single dwelling units in a multi-unit dwelling or structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.
56. **Confined Animal Feeding Use.** (See Intensive Livestock, Confinement Facilities/Operations.)
57. **Convalescent Care.** (See Nursing Home.)
58. **Covenant.** Written promise or pledge.
59. **Cul-De-Sac.** A local street with only one (1) outlet and with an opposite end providing for the reversal of traffic.
60. **Culvert.** A transverse drain that channels water under a bridge, street, or driveway.
61. **Curb.** A vertical or sloping edge of a roadway, intended to define the edge of the cartway or street and to channel or control drainage.
62. **Day Care Center.** (See Child Care Center.)
63. **Day Care Home.** (See Child Care Home.)
64. **Development Agreement.** An agreement between the City and Subdivider whereby the Subdivider guarantees to complete all improvements and terms for payment of costs for same.
65. **District or Zone.** 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 herein established.

66. **Dog.** Any canine species over six (6) months of age.
67. **Drive-in Service.** A type of retail sales which encourages, recognizes, or permits patrons or customers to call for service by the flashing of lights or by the parking of motor vehicles at a particular place, intended to result in a cash sale and delivery outside of the places of business to such patrons or customers.
68. **Duplex.** Any building containing exactly two dwelling units which are side by side with a common wall and roof, situated on a single lot.
69. **Dwelling.** Any building or portion thereof, not including mobile homes but including modular homes, which is designed and used exclusively for residential purposes.
70. **Dwelling Single Family.** A dwelling having accommodations for and occupied exclusively by one family.
71. **Dwelling, Single-Family Attached or Townhouse.** A portion of a dwelling 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 the other portions.
72. **Dwelling, Two-family.** A building or semi-detached building or portion thereof designed or occupied exclusively by two families living independently of each other.
73. **Dwelling, Multiple-family.** A building or portion thereof designed with accommodations for or occupied by three (3) or more families living independently of each other who may or may not have joint services or facilities or both. The term includes dormitories and lodging and boarding houses but does not include hotels, motels, and tourist courts.
74. **Dwelling for the Elderly and/or Handicapped.** A two-family or Multiple-family dwelling having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those people who are at least sixty-two (62) years of age. Handicapped Persons are those people having an impairment which is expected to be of long, continuous, and indefinite duration and is a substantial limitation to their ability to live independently.
75. **Earth Sheltered Residence.** A residence designed as a complete structure below or partially below ground level, which was not intended to serve as a substructure or foundation for a building.
76. **Easement.** The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.
77. **Engineer.** One, licensed by the State of Nebraska, designated by the Indianola City Council to act for the City.
78. **Family.** One person or more than one person related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit; plus, in either case, usual domestic servants, and/or resident staff. A family shall under no circumstances be construed as a boarding house, fraternity or sorority house, club, lodging house, hotel, or motel.
79. **Farm.** The use of a tract of land of twenty (20) acres or more for the growing of crops, pasture, nursery, or the raising of poultry and livestock, including the structures necessary for carrying out farming operations and the residence or residences of those owning or operation the premises, or persons employed thereon.
80. **Fascia.** A parapet-type wall used as part of the façade of a flat-roofed building and projecting no more than six (6) feet from the immediately adjacent building face. Such wall shall enclose at least three (3) sides of the projecting flat roof and return to the parapet wall or the building.
81. **Feedlot.** Any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, swine, and poultry are maintained in close quarters for fattening such livestock for final shipment to market. Pasturing or grazing shall not be considered a feedlot.

82. **Fence.** Any vertical structure, other than a building or plant material which is for obstructing visual observation, or for obstructing pedestrian, automotive or animal movement, or for beautification, and which is attached to the ground or to a building, but excluding retaining walls.
- a. *Open Fence.* A fence where the design contains openings that constitute not less than fifty percent (50%) of the surface area of the fence. The surface area is the product of a length of fence measured from the inside edge of one support post or column to the inside edge of the next adjacent support post or column; times the height of the same section of fence.
 - b. *Closed Fence.* A fence where the design of the fence has more than fifty (50%) percent of the surface area closed.
83. **Floodplain.** Floodplain or flood-prone area means any land area Susceptible to being inundated by water from any source.
84. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.
85. **Floodway Fringe.** All that land in a floodplain not lying within a delineated floodway. Land within a floodway fringe is subject to an inundation by relatively low velocity flows and shallow water depths.
86. **Floor Area, Gross.** The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural headroom of six feet, six inches or more; as measured from the exterior faces of the walls. It does not include cellars unclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles to meet the parking requirements of this by law.
87. **Foundation.** The supporting substructure of a building or other structure, including but not limited to, basements and slabs designed to provide a structural system for transferring loads from a structure to the earth.
88. **Foundation, Permanent.** (1) A full, poured concrete or masonry foundation; (2) a poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor; (3) a floating slab for which the municipality may require an engineer's certification; (4) any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.
89. **Frontage.** The length of the property abutting on one (1) side of a street measured along the dividing line between the property and the street.
90. **Funeral Home.** A building or part hereof used for human funeral Services, such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b.) the performance of autopsies and other surgical procedures; c.) the storage of caskets, funeral urns, and other related funeral supplies; and d.) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.
91. **Garage, Private.** A building for the private use of the owner or Occupant of a principal building situated on the same lot or attached to the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.
92. **Garage, Public.** A building designed and used for the storage of Personal property or automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.
93. **Garage, Repair.** (See also Service Station.) 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.
94. **Governing Body.** The City Council of the City of Indianola, Nebraska.

95. **Grade.** As the average finished ground level of the land around the building within the area between the building and the property line is more than five feet from the building, between the building and a line, five feet from the building.
96. **Green Area.** (See Common Open Space.)
97. **Greenhouse.** A structure devoted to the cultivation and/or the protection of plants. Usually having a roof and/or sides of translucent material.
98. **Group Home.** Means a facility which houses more than five (5) but less than sixteen (16) persons. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance, and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.
99. **Group Home for the Handicapped.** (See also Family.) A dwelling shared by four or more handicapped persons, including resident staff, 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 resident to live 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; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home for the handicapped" shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities for serving as an alternative to incarceration.
100. **Hazardous Substances.** Any substances or materials that, because of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.
101. **Health/Recreation Facility.** An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna, and pro shop.
102. **Height.** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level of the building from the grade in all other cases. For all instances in this regulation the maximum height guidelines shall use the peak as the highest measuring point.
103. **Helistop - Limited Use.** Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without prior permission having been obtained.
104. **Hike/Bike/Pedestrian Trail.** A recreational trail prohibiting all non-emergency or public maintenance motorized vehicles.
105. **Historic District.** An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.
106. **Hobby.** An activity undertaken as a means of providing relaxation, enjoyment, or a learning experience and where any income is an incidental part of the activity.
107. **Home Occupation.** An occupation carried on in a dwelling unit by the resident thereof; provided that the use is incidental and secondary to a property's primary residential use. A home occupation use shall not change the residential character of the property or the neighborhood and shall meet all applicable legal requirements.

108. **Hospital.** An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured person, and licenses by state law to provide facilities and services in surgery, obstetrics, and general medical practice.
109. **Hotel or Motel.** A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.
110. **Impervious Coverage Area.** The total horizontal area, expressed as a percent of the entire site area, of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water. The surface water area of pools is excluded from this definition.
111. **Impervious Surface.** Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.
112. **Improvement.** Street pavement or resurfacing, curbs, gutter, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.
113. **Inoperable Motor Vehicle.** A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency or is not currently licensed.
114. **Intensive Livestock, Confinement Facilities/Operations.** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 days within any calendar year, beginning January 1st.
115. **Junk.** Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.
116. **Junk Yard.** A lot, land or structure or part thereof, used primarily for the collection, storage and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.
117. **Kennel.** An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.
118. **Landfill.** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.
119. **Landscaped Area.** The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
 - a. *Perimeter Landscaped Area.* Any required landscaped area that adjoins the exterior boundary of a lot, site, or common development.
 - b. *Interior Landscaped Area.* Any landscaped area within a site exclusive of required perimeter landscaping.
120. **Laundry, Self Service.** A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

121. **Lean-to.** Building having three (3) sides and a roof using the wall of another building for the fourth (4th) side used for storage or a workshop.
122. **Lot.** A parcel of land shown as a unit on a recorded subdivision plat.
123. **Lot Area.** The total horizontal area within the lot lines of a lot.
124. **Lot, Corner.** A lot abutting upon two (2) or more streets at their intersection.
125. **Lot Depth.** The average horizontal distance between the front and rear lot lines.
126. **Lot, Double Frontage.** An internal lot having a frontage on two streets.
127. **Lot, Flag.** Lots or parcels that the City has approved with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.
128. **Lot, Interior.** A lot other than a corner lot which has frontage on one (1) street only.
129. **Lot Line.** The property line bounding the lot.
130. **Lot Line, Front.** (See also Yard, Front.) The property line dividing a lot from a public or private street and from which the required front setback is measured.
131. **Lot, Rear.** The rear of a lot shall be that side opposite the front of the lot.
132. **Lot of Record.** A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.
133. **Lot, Substandard.** A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of the ordinance codified in this title.
134. **Lot, Through.** A lot having its front and rear yards each abutting on a street.
135. **Lot, Width.** The mean horizontal distance between the side lot lines, measured at right angles to the lot depth. Where side lot lines are not parallel the minimum width of a lot shall be measured at the front yard setback line, but in no case, shall the front lot line be less than 35 feet in width.
136. **Manufactured Home.** A factory built single-family dwelling structure which is to be used as a place for human habitation, which bears a label certifying that it was manufactured or constructed in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act, and which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, does not have permanently attached to its body or frame any wheels or axels, and which complies with the following architectural and aesthetic standards listed below. For any of these regulations, manufactured home shall be considered the same as a single-family detached dwelling.
 - a. *In Compliance.* Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted when the additional requirements outlined in Chapter 3 of this Ordinance are met.
 - b. *Not in Compliance.* Manufactured or mobile homes which do not meet all of the standards listed in Chapter 3 of this Ordinance, may be placed in a mobile home park or as permitted by Code, provided the structure is transportable in one (1) or more sections which in the traveling mode are eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, are three hundred twenty (320) or more square feet and which are built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

137. **Maximum Building Coverage.** Measures the percentage of a site that may be covered by the footprint of buildings. Thus, a twenty thousand (20,000) square foot building on a forty thousand (40,000) square foot site has a building coverage of fifty percent (50%). This is a method of regulating the scale of buildings in an area.
138. **Maximum Impervious Coverage.** Measures the percentage of a site that may be covered by buildings and other surfaces and development features which prevent the penetration of water into the ground (such as driveways, porches, parking lots, and other features). Limits on impervious coverage help control the velocity and quantity of storm water runoff and provide for groundwater recharge.
139. **Medical Office.** Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.
140. **Mini-Warehouse.** (See Self Service Storage Facility).
141. **Minor Subdivision.** (See Administrative Subdivision).
142. **Mobile Home Park.** Any area, tract, site or plot of land where upon a minimum of two (2) mobile homes as herein defined are placed, located or maintained or intended to be placed, located or maintained for dwelling purposes.
143. **Mobile Home.** A building type designed to be transportable in one (1) or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the U.S. Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings.
144. **Mobile Home, Double-Wide.** A mobile home that consists of two or more sections that are transported separately and assembled at the site into one structure of a width of not less than twenty feet.
145. **Mobile Home Park.** A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks may include common areas and facilities for management, recreation, laundry, utility services, storage, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.
146. **Mobile Home, Single-Wide.** A mobile home that consists of one section which the main body, exclusive of expansions or extensions, is sixteen feet or less in width.
147. **Mobile Home Space.** A plot of ground within a mobile home park which can accommodate one mobile home and which provides the necessary utility services for water, sewerage, and electricity.
148. **Mobile Home Subdivision.** A subdivision where individual lots are sold for the placement of manufactured or mobile homes where the lot and structure are intended, to be owned by the same party.
149. **Modular Home.** "Modular housing unit" shall mean any dwelling whose construction consists entirely of, or the major portions of its construction consists 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. Modular housing units shall be taxed as real estate. The term "modular housing unit" shall not include a manufactured home.
150. **Monuments.** Permanent concrete or iron markers used to establish all lines of the plat of a subdivision, including all lot corners, boundary line corners and points of change in street alignment.

151. **Non-Commercial Wind Energy Systems (Small).** Shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce onsite consumption of utility power.
152. **Nonconforming Building/Structure.** Any building or structure that does not meet the limitations on building size and location on a lot, for the district in which such building is located, for the use to which such building is being located.
153. **Nonconforming Lot.** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance which no longer conforms to the zoning standards because of said revision or amendment. No action can be taken which would increase the non-conforming characteristics of the lot.
154. **Nonconforming Use.** A lawful use of land or building that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.
155. **Nursery.** An area where plants, such as trees and shrubs, are grown for transplanting, for use as stock for budding and grafting or for sale.
156. **Nursing Home – Convalescent Home.** 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.
157. **Open Space.** An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes.
158. **Out Lot.** Property shown on a subdivision plat outside of the boundaries of the land which is developed and which is to be excluded from the development of the subdivision.
159. **Overlay District.** A district which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
160. **Park.** Any public or private land available for recreation, educational, cultural, or aesthetic use.
161. **Parking Area, Public or Customer.** An area other than private parking area, street, or alley, used for the parking of automobiles and available for public or semi-public use.
162. **Parking Space, Off-Street.** Off-street parking shall mean an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress. A surfaced area of not less than two hundred (200) square feet on private or public property, either within or outside a building, suitable in size and location to store one standard automobile.
163. **Pedestrian Ways.** A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.
164. **Pervious Coverage.** Area maintained in its natural condition, or covered by material that permits infiltration or percolation of water into the ground. Any material that permits absorption of water into the ground.
165. **Planned Development.** Special development of certain tracts of land, planned and designed as a unit for one (1) or more land uses under the regulations and procedures contained in this Article.
166. **Planning Area.** The statutory zoning jurisdiction of the City of Indianola.
167. **Planning Commission.** The appointed planning body designated by the Indianola City Council.
168. **Plat.** Map, drawing, or chart upon which the developer's plan of subdivision (Preliminary) is presented to the City Council for approval and, after such approval, to the appropriate County Clerk for recording.
169. **Plot.** A parcel of ground.
170. **Poultry Farm.** (See Feedlot).

171. **Principal Building.** Building in which the primary use of the lot is intended.
172. **Principal Use.** The primary use and chief purpose of a lot or structure.
173. **Public Works Plan.** An improvement analysis, conducted and prepared by City Engineer, delineating what necessary sewer, water, drainage, street, storm water, floodplain, well head and easement improvements will be needed for all phases of a subdivision.
174. **Public Way.** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.
175. **Quonset.** A building made of corrugated metal and having a semicircle cross section.
176. **Recreational Vehicle.** A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently 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.
177. **Recreational Vehicle (RV) Park.** Any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles for accommodating temporarily occupied living quarters for recreation or vacation purposes.
178. **Recycling Center.** A facility that is not a junk yard and in which recoverable resources are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building. (Such as newspaper, glassware, metal, cans, etc.)
179. **Restaurant.** An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.
180. **Restaurant, Drive-in.** A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.
181. **Restaurant, Fast-food.** An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.
182. **Right - of - Way.** A strip of land, taken or dedicated for use as a public way which is occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.
183. **Road, Public.** (See also Right-of-way and Street.) All public property reserved or dedicated for street traffic.
184. **Road, Private.** (See also Right-of-way and Street) A way open to vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.
185. **Salvage or Junk Yard.** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.
186. **School.** A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high school.

187. **Screening.** The method by which a view of one site from another element or form adjacent or contiguous development. Screening may include one or a combination of the following materials of sufficient mass to be opaque or that shall become opaque after 12 months and which shall be maintained in an opaque condition; walls, berms, or plantings.
188. **Self-Service Storage Facility.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor supplies.
189. **Service Station.** (See also Garage, Repair) Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.
190. **Setback.** The required minimum horizontal distance between the building line and the related front, side, or rear property line.
191. **Sewers, On-Site.** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.
192. **Shed.** Free standing building not larger than ten feet by twelve feet (10' by 12') used for storage or workshop.
193. **Sidewalk.** A walkway consisting of a paved or cemented area for pedestrians; usually beside a street or roadway but within the right-of-way.
194. **Sight Triangle.** 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 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the center line of the streets, 80 feet in each direction along the center line of the streets. At the intersection of major or arterial streets, the 80-foot distance shall be increased to 120 feet for each arterial leg of the intersection.

195. **Sign.** (Signage) Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, and advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of governmental notice or flag.

- a. *Abandoned Sign.* A sign that is not operated or maintained for a period of one hundred eighty (180) calendar days or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (1) the sign displays advertising for a product or service which is no longer available, (2) the sign displays advertising for a business which is no longer licensed, or (3) the sign is blank. An abandoned sign includes a sign on which is advertised a business that is no longer doing business on the parcel where the sign is located. An abandoned sign includes a sign for a purpose for which the purpose has lapsed.
- b. *Animated Sign.* Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- c. *Announcement Sign.* A sign which displays information pertaining to any permitted principal use of a nonresidential nature.
- d. *Architectural Canopy Sign.* An enclosed, illuminated or non-illuminated structure which is attached to a building wall with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.
- e. *Awning Sign.* 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 an Awning Sign.)
- f. *Banner Sign.* 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.
- g. *Billboard Sign.* 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.
- h. *Building Sign.* Any sign supported by, painted on, or otherwise attached to any building or structure.
- i. *Building Marker Sign.* Any sign indicating the name of a building and date and incidental information about its construction, in which sign is cut into a masonry surface or made of bronze or other permanent material and affixed to the building.
- j. *Canopy Sign.* (See Architectural Canopy Sign or Awning Sign.)
- k. *Commemorative Sign.* A sign issued to honor a person, place, event, or item which has historical significance.



Abandoned Sign



Animated Sign



Announcement Sign



Architectural Canopy Sign



Awning Sign



Banner Sign



Billboard Sign



Building Sign

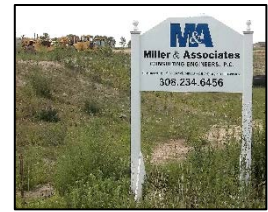


Commemorative Sign



Building Marker Sign

- l. *Construction Sign.* A temporary sign directly connected with a construction project; may include the name, addresses, and/or telephone number of the company(s) involved with said construction project. Any construction signs shall be removed no more than 30 days after project completion.
- m. *Changeable Copy Sign.* A sign or portion thereof with characters, letters, or illustrations which can be changed or rearranged without permanently 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.
- n. *Commercial Message Sign.* 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.
- o. *Community or Civic Sign.* A sign containing business logos and/or logos of civic organizations. The sign is intended to provide space for several businesses and/or organizations on one sign, and all advertising is similar in size. The primary intent of the community or civic sign is for informational purposes and to communicate information to the motoring public as to businesses and organizations that are active in the community. Community or civic signs are owned and operated by the local chamber of commerce or other civic organization or non-profit entity.
- p. *Destination Sign.* A sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the simplest, direct, and concise manner possible. May also be referred to as a wayfinding sign.
- q. *Electronic Message Board Sign.* 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.
- r. *Flashing Sign.* 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.
- s. *Freestanding Sign.* Any sign supported by uprights or braces placed on or in the ground, which is not supported by any building.
- t. *Ground Sign.* A sign mounted directly to the ground which shall not impede vehicular sightlines.
- u. *Historical Marker Sign.* (See Commemorative Sign.)
- v. *Illuminated Sign.* A sign illuminated in any manner by an artificial light source.



Construction Sign



Changeable Copy Sign



Commercial Message Sign



Community or Civic Sign



Destination Sign



Electronic Message Board Sign



Flashing Sign



Freestanding Sign



Illuminated Sign



Ground Sign

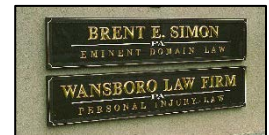
- w. *Incidental Sign.* A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- x. *Marquee Sign.* Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building.
- y. *Nameplate Sign.* A sign not exceeding 2 square feet for each dwelling.
- z. *Non-Conforming Sign.* Any sign that does not conform to the requirements of this ordinance.
- aa. *Off-Premises Sign.* 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.
- bb. *On-Premise Sign.* A sign, display, or device-advertising activities conducted on the property on which such sign is located.
- cc. *Pennant Sign.* 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.
- dd. *Pole Sign.* A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.
- ee. *Portable Sign.* 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: 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.
- ff. *Projecting Sign.* A projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.



Incidental Sign



Marquee Sign



Nameplate Sign



Off-Premises Sign



On-Premises Sign



Pennant Sign



Pole Sign



Projecting Sign



Portable Sign

- gg. *Real Estate Sign.* A temporary sign advertising the sale, lease, or rent of the property on which said sign is located. The sign shall include the identification and contact information of the person and/or company handling said sale, lease, or rent.
- hh. *Roof Sign.* 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.
- ii. *Roof (Integral) Sign.* 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.
- jj. *Subdivision Sign.* A sign which identifies the platted subdivision where the sign is located. Typically located near any entrances into said subdivision.
- kk. *Suspended Sign.* A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- ll. *Temporary Sign.* A sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display (no more than 90 days), including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.



Real Estate Sign



Roof Sign



Roof Integral Sign



Subdivision Sign



Wall Sign



Temporary Sign



Suspended Sign

- mm. *Wall Sign.* 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.
- nn. *Window Sign.* 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/ glass and is visible from the exterior of the window.



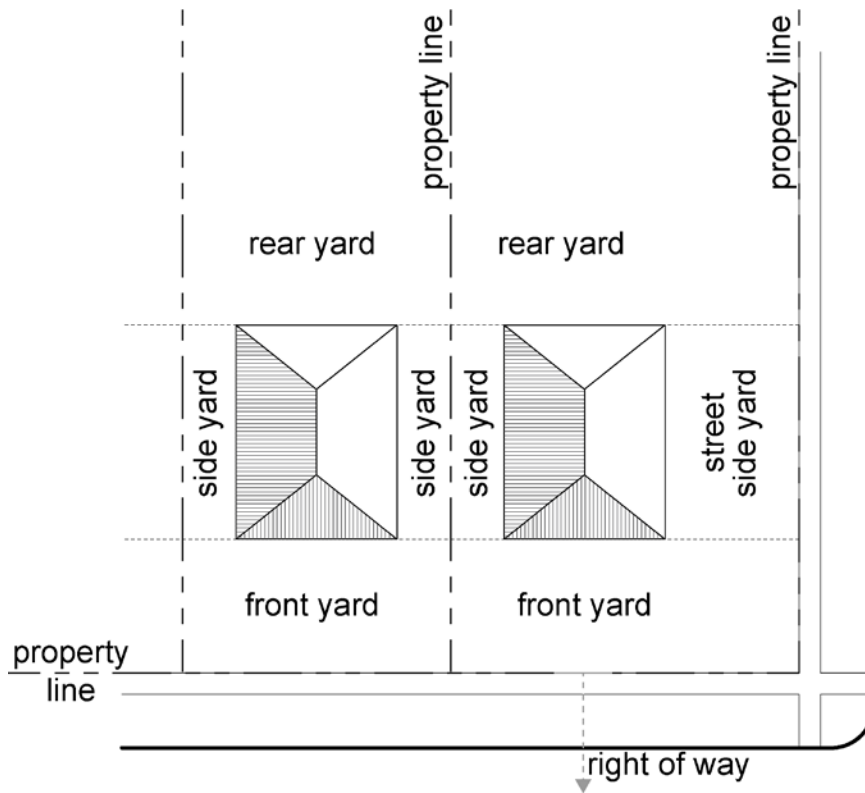
Window Sign

- 196. **Sign Setback.** The horizontal distance from the property line to the nearest projection of the existing or proposed sign.

197. **Single Family, Attached.** A dwelling having a common wall with another dwelling. The common wall is on a lot line dividing two (2) residential lots. Each dwelling may be the property of two (2) different owners.
198. **Site Plan.** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.
199. **Solar Energy.** Radiant energy (direct, diffuse, and reflected) received from the sun.
200. **Solar Equipment.** A structure designed to utilize solar energy as an alternative for, or supplement to, a conventional energy system.
201. **Solid Waste Landfill.** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.
202. **Solid Waste Transfer Station.** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.
203. **Storage Building.** A building or structure used, or intended to be used, for the sole purpose of storing goods and materials.
204. **Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or it is used for business or dwelling purposes.
205. **Street.** That area of land platted and dedicated for public use, or lawfully used, as a public thoroughfare for vehicular travel; excluding from this definition access ways commonly designated as alleys.
206. **Street, Center Line.** A line midway between street lines.
207. **Street Line.** A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.
208. **Structure.** Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
209. **Structural Alteration.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders; any substantial change in the roof or in the exterior walls, excepting from this definition such alterations as may be required for the safety of the building.
210. **Subdivider.** The owners, developers or agents of persons or corporations affecting subdivision.
211. **Subdivision.** Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development. The term includes re-subdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
212. **Surveyor.** Any person registered in Nebraska to practice surveying.
213. **Temporary Use.** A prospective use, intended for limited duration to be located in a zoning district not permitting such use, and not continuing a nonconforming use or building.

214. **Thoroughfare, Street, or Road.** The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:
- a. *Alley.* A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property.
 - b. *Arterial Street.* A street which provides for through traffic movement between and around streets with direct access to abutting property, subject to necessary control of entrances, exits, and curb use.
 - c. *Collector Street.* A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
 - d. *Cul-de-sac.* A local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turnaround.
 - e. *Dead-end Street.* A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
 - f. *Local Street.* A street which provides direct access to abutting land and local traffic movement, whether in business, industrial or residential land.
 - g. *Marginal Access Street.* A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also, called Frontage Street or Service Road)
215. **Townhouse.** One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.
216. **Variance.** A dispensation permitted by the Board of Adjustments relieving a property owner from dimensional requirements of the Zoning Regulations which would cause exceptional practical difficulties or exceptional and undue hardship.
217. **Vicinity Map.** A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the City of Indianola, in order to better locate and orient the area in question.

218. **Yard.** A space on a lot that is open, unoccupied, and unobstructed by buildings or structures from the ground upward.
219. **Yard, Front.** A yard extending across the full width of the lot, the depth of which is the least distance between a front lot/property line and the front setback line.
220. **Yard, Rear.** A yard extending across the full width of the lot, of which is the least distance between the rear lot/property line and the rear setback line.
221. **Yard, Required.** The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in these regulations.
222. **Yard, Side.** A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.



223. **Zoning.** A police power measure in which the community is divided into districts or zones within which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement, and other development standards.
224. **Zoning Administrator.** An appointed official whose primary responsibility is to enforce Zoning Regulations.
225. **Zoning District.** An area delineated on a Zoning Map for which uniform use regulations are specified.
226. **Zoning Map.** A map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.
227. **Zero Lot Line.** The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

2-3. UNDEFINED WORDS

Words or terms not herein defined shall have their Ordinary meaning in relation to the context.

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ARTICLE 3: GENERAL PROVISIONS

3-1. CLASSIFICATION OF DISTRICTS

In order to carry out the provisions of this Ordinance, the jurisdiction of the City of Indianola is divided into the following districts:

ABBR.	ZONING DISTRICTS	ARTICLE #
A-1	Agricultural District	4
TA	Transitional Agriculture District	5
R-1	Residential District	6
C-1	Downtown Commercial District	7
C-2	Highway Commercial District	8
FF/FW	Floodway Fringe & Floodway Overlay District	9

The boundaries of these districts are shown on the official Zoning Map which accompanies and is part of this Ordinance. The original of this map is properly attested and on file with the City Clerk and all the information shown thereon shall have the same force and effect as is fully set forth or described herein.

3-2. GENERAL REQUIREMENTS

No building shall be erected, converted, enlarged, moved, or structurally altered, nor shall any building or premises be used for any purpose other than permitted in the district in which such building or premises is located. No building shall be erected, enlarged, moved, or structurally altered except in conformity with the height, yard, area per family, parking and other regulations prescribed herein for the district in which such lot is located; every part of a required yard shall be open to the sky unobstructed, except as hereinafter provided, and no yard or lot area shall be reduced to be smaller than the applicable district requirements.

3-3. ZONING MAP

- A. The City is hereby divided into zones or districts as designated below and shown on the official Zoning Map, which is part of this Ordinance with all future amendments, as and when needed. The official Zoning Map shall bear the seal of the City, shall be dated with the date of adoption of this Ordinance and signed by the Chairman of the City Council and attested by the City Clerk.
- B. The signed copy of the official Zoning Map containing the zoning districts designated at the time of adoption of this Ordinance shall be maintained in the office of the City Clerk for the use and benefit of the public.
- C. Zoning Map Change/Amendments
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 with an entry on the official Zoning Map as follows:

“On ___ day of ____, 20___, by official action of the City Council the following change (changes) were made to the official Zoning Map: (brief description of change), which entry shall be signed by the Chairman of the City Council, and attested by the City Clerk. No amendment to this Ordinance which involves matter portrayed on the official Zoning Map shall become effective until after such change and entry has been made on the maps. However, the City shall not be required to publish the Zoning Map after each amendment thereto.

No changes of any notices shall be made to the official Zoning Map or matter shown therein except in conformity with the procedures set forth in this Ordinance.

3-4. DISTRICT BOUNDARIES

Unless otherwise defined on the Zoning Map, district boundary lines are lot lines, centerlines of streets or water courses, centerlines of streets, alleys and railroad rights-of-way, section lines, half section lines, Corporate Limit lines, or other lines drawn to scale on the Zoning Map.

3-5. JURISDICTIONAL AREA

The provisions of these regulations shall apply to all structures and land in the incorporated area of Indianola, Nebraska; and the full jurisdiction of the City of Indianola which includes a one-mile radial jurisdiction extending past the corporate limits of the Village. The Village's full jurisdiction is as shown on the Official Zoning Maps.

- A. The jurisdictional area shall be shown on the Official Zoning District Map and filed in the office of the City Clerk.
- B. All land which may hereafter be annexed to the City of Indianola shall be zoned by the City Council, with recommendation by the Planning Commission.
- C. Upon automatic extension of the one (1) mile Extra-Territorial Jurisdiction (ETJ), the unincorporated area which may hereafter fall under the jurisdiction of the City of Indianola because of an increase in the jurisdictional area shall be classified as "A-1" Agricultural District unless otherwise denoted or changed by ordinance.

ARTICLE 4: AGRICULTURAL DISTRICT (A-1) REGULATIONS

This district is comprised of areas which are primarily in a natural state or areas utilized for raising of livestock and poultry, farming, ranching, and resource conservation activities. It is intended that this district satisfies the basic needs of Indianola and Red Willow County agricultural operations; it is vital that agricultural operations be allowed and protected from encroachments by non-agricultural uses.

Building Permits shall be required for all structures (exceeding 120 square feet of enclosed built up area) with fees charged as adopted by the City Council.

4-1. PERMITTED USES

- A. Churches and other places of worship.
- B. Farming, pasturing, truck gardening, orchards, and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot for more than twenty-five (25) animal units shall be established unless approved as a conditional use.
- C. Green House.
- D. Horse stables and ranches.
- E. Manufactured homes following requirements set forth in this Ordinance.
- F. Modular Homes.
- G. Plant Nursery.
- H. Public or private schools.
- I. Publicly, owned or operated parks, playgrounds, golf courses, and recreational uses.
- J. Single-family dwellings.
- K. Accessory buildings and uses customarily incidental to those listed above.

4-2. CONDITIONAL USES

- A. The following conditional uses may be permitted subject to approval procedures outlined in these regulations.
- B. Airports and airfields.
- C. Anhydrous ammonia storage and distribution; provided such storage and distribution shall not be within 1,320 feet of any residential district boundary.
- D. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
- E. Cemeteries including mausoleums; provided mausoleums shall be at least two hundred (200) feet from every street line and adjoining lot lines.
- F. Commercial Wind Energy Systems. (See Wind Energy Systems Section)
- G. Communication Towers. (See Communication Tower Section)
- H. Earth-sheltered residences.
- I. Hospitals and institutions of an educational, religious, charitable, or Philanthropic nature.
- J. Kennels – breeding and boarding.
- K. Meteorological Towers. (See Wind Energy Systems Section)
- L. Mobile Homes.
- M. Non-Commercial Wind Energy Systems. (See Wind Energy Systems Section 18)
- N. Other publicly owned buildings and uses not specifically listed elsewhere in this district.
- O. Seasonal or temporary uses such as a recreation camp or similar enterprises.
- P. Solid waste disposal and processing sites which include landfills, incinerators, transfer stations and other similar functions.
- Q. Telephone exchanges, electric substations, or similar public utility uses.
- R. The extraction of minerals or raw minerals and the processing, treating, or storing of such minerals or materials.

4-3. SITE DEVELOPMENT REGULATIONS

REGULATOR	USES PERMITTED
Minimum Lot Area	10 acres
Minimum Lot Width (feet)	200
Minimum Lot Depth (feet)	200
Minimum Yards (feet)	
Front Yard	50
Side Yard	25
Street Side Yard	50
Rear Yard	100
Maximum Height (feet)	35*

**Except that barns, silos, and other agriculture structures may be of any height.*

4-4. SUPPLEMENTAL REGULATIONS

- A. Accessory Buildings.
No accessory building limitations pertain to the Agricultural District.
- B. Fences.
No fence regulations pertain to the Agricultural District.
- C. Utilities.
 - 1. Power lines, natural gas lines and telephone lines must follow section lines in non-platted agricultural districts.
 - 2. Notwithstanding other provisions of this Ordinance, all dwellings hereafter erected, enlarged or reconstructed in an Agricultural District shall conform to the regulations of Title 124 – Rules and Regulations for the Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, as adopted by the Nebraska Department of Environmental Quality.
- C. Off-Street Parking.
No off-street parking regulations pertain to the Agricultural District.
- D. Landscaping.
No landscaping regulations pertain to the Agricultural District.
- E. Signage.
No signage regulations pertain to the Agricultural District.
- F. Home Occupations/Home-Based Businesses.
No home occupations/ home-based businesses regulations pertain to the Agricultural District.
- G. Mobile/Manufactured Homes.
All mobile/manufactured homes located within the Agricultural District shall meet the following standards:
 - 1. The home shall have no less than nine hundred (900) square feet of floor area.
 - 2. The home shall have no less than an eighteen (18) foot exterior width.
 - 3. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
 - 4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
 - 5. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
 - 6. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
 - 7. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
 - 8. The home must meet building code requirements adopted by the City.
 - 9. The home shall be set on a permanent masonry or concrete foundation.

ARTICLE 5: TRANSITIONAL AGRICULTURE DISTRICT (TA) REGULATIONS

This district is intended for general agricultural purposes within one mile of the City of Indianola. This zone is intended to provide for low-density, acreage residential development and some agricultural uses in selected areas adjacent to or near the corporate limits of the City and other developed areas.

5-1. PERMITTED USES

- A. Agricultural uses, livestock shall be permitted, provided that no livestock operation is greater than five (5) animal units as defined in this Ordinance. No roosters are allowed in the "TA" District past the age of maturity and/or once they have developed their ability to crow.
 - 1. All livestock should be kept in a stable, barn, pen, or fenced in area.
 - 2. All structures that house livestock shall follow all minimum yard regulations set forth in this district, except that no part of the stable, barn, pen, or fenced in area shall be closer than 150 feet from any neighboring residence.
- B. Churches, places of worship and cemeteries.
- C. Community buildings and/or facilities owned and/or occupied by public agencies.
- D. Irrigation and flood control projects.
- E. Manufactured homes which comply with this Ordinance.
- F. Public and/or private schools.
- G. Public parks and recreational areas.
- H. Roadside stands for the sale of agricultural produce grown on the agricultural farm operation.
- I. Single-family dwelling.
- J. Accessory buildings and uses customarily incidental to those listed above.

5-2. CONDITIONAL USES

The following conditional uses may be permitted subject to approval procedures outlined in these regulations.

- A. Camp grounds.
- B. Communication Towers. (See Communication Tower Section)
- C. Earth – Sheltered residences.
- D. Greenhouses and nurseries.
- E. Group homes.
- F. Medical Clinics.
- G. Meteorological Towers. (See Wind Energy Systems Section)
- H. Mortuaries.
- I. Non-Commercial Wind Energy Systems. (See Wind Energy Systems Section) Non-profit institutions of an educational, philanthropic, or charitable nature, except for penal or mental institutions.
- J. Public and Private Golf Courses.
- K. Telephone exchanges, electric substations, or other similar public utilities.

5-3. SITE DEVELOPMENT REGULATIONS

For single-family residences located in the corporate limits and for areas outside the corporate limits (within a quarter-mile radius) that are served by public water and sewer facilities.

REGULATOR	USES PERMITTED
Minimum Lot Area	10 acres
Minimum Lot Width (feet)	200
Minimum Lot Depth (feet)	200
Minimum Yards (feet)	
Front Yard	50
Side Yard	25
Street Side Yard	50
Rear Yard	100
Maximum Height (feet)	35*

** Except that barns, silos, and other agriculture structures may be of any height.*

5-4. SUPPLEMENTAL REGULATIONS

- A. Accessory Buildings.
No accessory building regulations pertain to the Transitional Agriculture District.
- B. Fences.
No fence regulations pertain to the Transitional Agriculture District.
- C. Utilities.
 - 1. Power lines, natural gas lines and telephone lines must follow section lines in non-platted agricultural districts.
 - 2. Notwithstanding other provisions of this Ordinance, all dwellings hereafter erected, enlarged, or reconstructed shall conform to the regulations of Title 124 – Rules and Regulations for the Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, as adopted by the Nebraska Department of Environmental Quality.
- D. Off-Street Parking.
No off-street parking regulations pertain to the Transitional Agriculture District.
- E. Landscaping.
No landscaping regulations pertain to the Transitional Agriculture District.
- F. Signage.
 - 1. **Computation of Area of Individual Signs.** The area of a sign 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 regulations and is clearly identical to the display itself.
 - 2. **Computation of Height of Signs.** 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. 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 lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

3. **Permitted Signage.** Permitted signs and the maximum number of signs allowed per lot and the maximum surface area and maximum height of each signage type for the Transitional Agriculture District. Signs meeting the definition of “Abandoned Sign” must be removed at the expense of the owner.

TYPE OF SIGNAGE	P/NP/T	MAX. SURFACE AREA (sq. ft.)	MAXIMUM HEIGHT (ft.)	MAXIMUM NUMBER
Animated	NP	-	-	-
Announcement	P	32	4	1
Architectural Canopy	P	205	45	1 ¹
Banner	P	32	8	3
Changeable Copy	P	32	8	2
Destination	P	16	8	1
Electronic Message Board	P	100	20	1
Flashing	NP	-	-	-
Freestanding	T	32	4	1
Ground	P	50	10	1
Illuminated	P	<i>(reference corresponding type of signage)</i>		
Marquee	NP	-	-	-
Nameplate	P	2	-	1
Off-Premises (Billboard)	NP	-	-	-
On-Premises (Billboard)	P	640	30	1
Pennant	P	32	-	-
Pole	NP	-	-	-
Portable	P	32	4	1
Projecting	P	16	45	1
Roof	P	250	42	1
Roof-Integrated	P	250	45	1
Subdivision	P	<i>(reference corresponding type of signage)</i>		
Suspended	P	20	10	1
Temporary	P	<i>(reference corresponding type of signage)</i>		
Wall	P	200 ²	15	1
Window	P	200 ²	15	1
P = Permitted		NP = Not Permitted	T = Temporary	

¹ One Canopy per window – canopy shall meet all minimum height requirements for accessibility.

² Wall/Window signs shall not exceed 10 percent of the total wall area.

4. **Signs, Special Conditions.**

- a. *Billboard Signs.* Billboards, signboards, and other similar signs shall be subject to the same height and location requirements as other structures within the district and shall also be subject to the following conditions and restrictions.
 - i. 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.
 - ii. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
 - iii. 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.
- b. *Hanging Signs.* Signs hung from canopies and awnings shall maintain 80-inches of clear space, as measured from the bottom edge of the sign to the grade below.
- c. *Temporary Signs.* Temporary signs may be for a continual period. Said temporary signs shall not be in place for more than four days prior to the event and shall be removed within 36 hours of the conclusion of said event.
- d. *Signs on Public Property.* Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- e. *Signs Exempt from Regulation.* The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, of this Ordinance and/or a collision hazard to the public:
 - i. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
 - ii. Any religious symbol;
 - iii. Construction signs on the construction site, visible from the public right-of-way, is removed at, or prior to, the end of the construction period;
 - iv. Any sign identifying a public facility or public/civic event;
 - v. Any sign inside a building, not attached to a window or door, that is not legible from more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
 - vi. Holiday lights and decorations with no commercial message;
 - vii. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
 - viii. A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

G. Home Occupations/Home-Based Businesses.

A home occupation may be allowed as a permitted accessory use provided all of the following conditions are met:

1. Home occupations shall not occupy more than thirty percent (30%) of the total floor area of the main building, or if located in an accessory building, shall not occupy more than fifteen percent (15%) of the total lot area.
2. The operation shall not substantially increase traffic in the area.
3. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
4. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living and no others.
5. Such use shall be clearly incidental and secondary to the use of the dwelling for the dwelling purposes and shall not change the character thereof.
6. No sign shall exceed sixteen (16) square feet in area and shall not be illuminated.
7. There shall be no exterior storage, on the premises, of material or equipment used as a part of the home occupation.
8. A home occupation shall provide additional parking area adequate to accommodate all needs created by the home occupation and shall be subject to review by the Planning Commission.
9. No alteration of the exterior of the principal residential building or accessory building shall be made, which changes the character thereof as a residence or negatively impacts the character of the neighborhood.

H. Mobile/Manufactured Homes.

All mobile/manufactured homes located within the Transitional Agriculture District shall meet the following standards:

1. The home shall have no less than nine hundred (900) square feet of floor area.
2. The home shall have no less than an eighteen (18) foot exterior width.
3. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
5. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
6. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
7. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
8. The home must meet building code requirements adopted by the City.
9. The home shall be set on a permanent masonry or concrete foundation.

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ARTICLE 6: RESIDENTIAL DISTRICT (R-1) REGULATIONS

This district is intended to accommodate existing single-family and multi-family residential uses, the expansion of those areas within and adjacent to the City of Indianola, and to provide a variety of housing types.

6-1. PERMITTED USES

- A. Churches and places of worship.
- B. Detached, fully-enclosed private storage structure that is non-accessory: a stand- alone building designed or used primarily for the shelter or storage of vehicles or boats, but not airplanes; used for storage of belongings; not designed for human habitation; and not used for business purposes.
- C. Hospitals.
- D. Manufactured homes following requirements set forth in this Ordinance.
- E. Nursing or Convalescent Homes.
- F. Public parks, playgrounds, municipal swimming pools, and schools.
- G. Public utilities, municipal library, and other similar type uses.
- H. Raising of animals: no more than .05 Animal Units as defined by this Ordinance. Common house pets shall be allowed, but may be governed by other municipal ordinances.
- I. Single-Family dwellings.
- J. Two-Family dwellings; duplexes.
- K. Accessory buildings and uses customarily incidental to the above uses.

6-2. CONDITIONAL USES

The following conditional uses may be permitted subject to approval procedures outlined in these regulations.

- A. Bed & Breakfast Homes.
- B. Child Care Centers.
- C. County Courthouse, offices, penal institutions.
- D. Earth – Sheltered residences.
- E. Group homes.
- F. Home Occupations.
- G. Medical Clinics.
- H. Mortuaries.
- I. Multi-family dwellings.
- J. Non-profit institutions of an educational, philanthropic, or charitable nature, except for mental institutions.
- K. Public and Private Golf Courses.
- L. Telephone exchanges, electric substations, or other similar public utilities.

6-3. SITE DEVELOPMENT REGULATIONS

REGULATOR	SINGLE-FAMILY	TWO-FAMILY	OTHER USES
Minimum Lot Area (sq. feet)	5,800	2,900/dwelling unit	5,800
Minimum Lot Width (feet)	44	44/dwelling unit	44
Minimum Yards (feet)			
Front Yard*	20	25	25
Side Yard	5	5**	10
Street Side Yard	20	25	25
Rear Yard	20	20	20
Maximum Height (feet)	35	35	35

* Unenclosed porches may be 10-feet from the Front Yard or Street Side Yard.

** The side yard setback between individual units of two-family dwellings may be reduced to zero, if a two-hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

6-4. SUPPLEMENTAL REGULATIONS

A. Accessory Buildings.

All accessory buildings and structures within the R-1 District shall comply with the following regulations:

1. No accessory buildings or structures shall be erected in the defined street side yard. The front side of an accessory building or structure may be constructed to sit in front of the front side of the principle structure, but shall not extend further than five (5) feet.
2. Accessory buildings may be located in the rear yard and side yard, but shall not be closer than five (5) feet to the rear or side lot-line except that if the building has a vehicular alley entrance, the setback of the structure shall not be less than ten (10) feet from the alley line.
3. Detached accessory buildings, except garden sheds less than 120 square feet and unenclosed carports, shall be permanently anchored to a foundation.
4. All accessory buildings shall be harmonious with the character of the neighborhood.
5. No Quonset type buildings shall be permitted. No portion of any accessory building shall be covered with unpainted or uncoated galvanized tin, "strong barn", imperial ribbed, corrugated sheets or panels, or any other similar-type material. For the safety of vehicular traffic, metal siding or roofing must be painted or coated with an unobtrusive, non-reflective color.

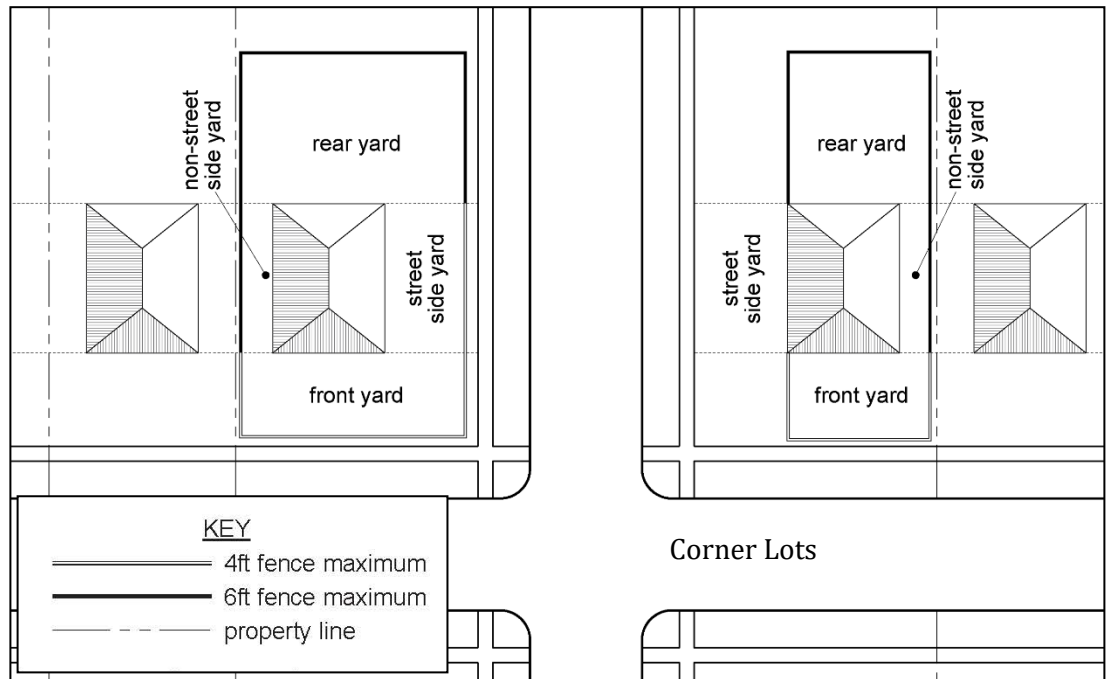
B. Fences.

These regulations apply only to new construction; any non-conforming fences, unless dilapidated and/or dangerous shall not be affected. No fence shall be erected, constructed, or moved until a building permit has been procured from the City. Application for a fence building permit shall include a sketch of the lot, the location of any buildings on the lot, the proposed fence and sufficient dimensions to accurately locate these features.

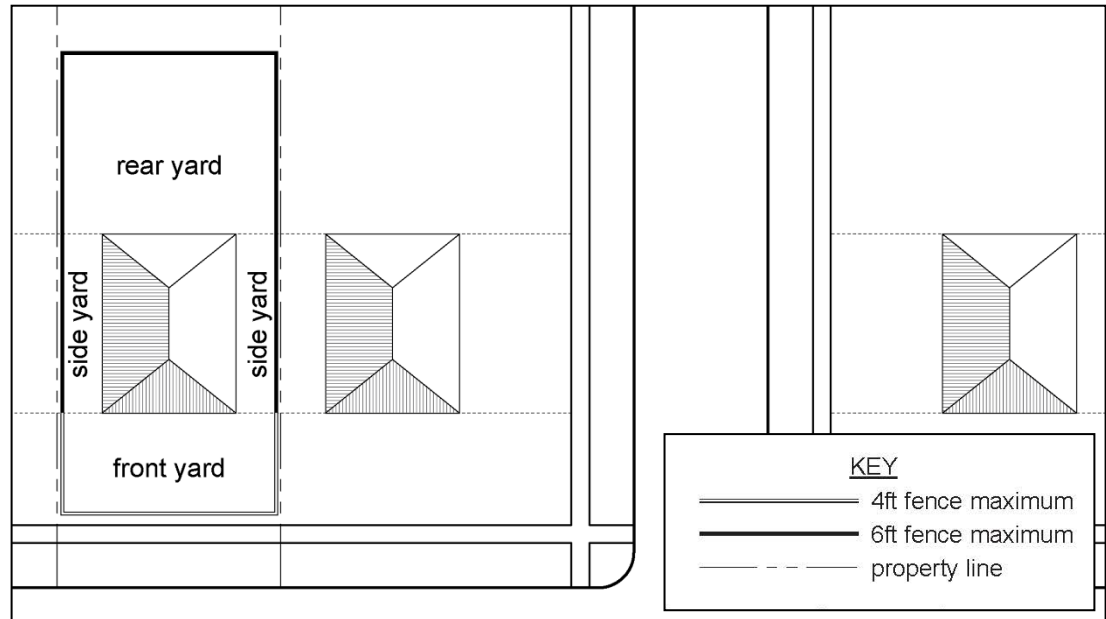
1. All fences must remain on the property and not extend beyond your property lines.
2. It is recommended to have your property surveyed by a licensed surveyor to positively identify and mark your property lines to avoid dispute. Property owners are responsible to locate property pins prior to any permit being issued. The City of Indianola does not mediate disagreements between owners of private property.
3. Permit Holder is responsible for calling Diggers Hotline of Nebraska prior to start of construction. The Permit Holder is responsible for scheduling all required inspections.
4. No fence shall be constructed which will constitute a traffic hazard.
5. No fencing shall conflict with the requirements of the clear vision area for streets and driveways. Fencing within a vision clearance shall not create a visual obstruction.

6. Fences shall not be closer than one foot (1') to any existing or planned public sidewalk. Fences cannot obstruct any existing or planned public sidewalks.
7. Installation of a fence may not obstruct any manhole or inlet cover nor disturb or impede existing drainage pattern/swale or natural water flow.
8. Any fence, hedge, or wall shall provide access to utility workers for meter reading and maintenance of the utility.
9. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
10. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety, and welfare.
11. The finished side of the fence must face to the outside of the property. Visible supports and other structural components shall face toward the owner's property.
12. Fences shall be constructed of commonly accepted, material for residential fences such as wood, plastic, vinyl, PVC/resin, concrete, stone, masonry, wrought iron, aluminum, chain link, or any other similar type fencing material; shall be structurally sound; shall have a neat, professional, and finished appearance.
13. Fences shall not be constructed of material not commonly used for residential fences such as fiberglass, barbed wire, wooden pallets, chicken wire, corrugated metals, strong bar, or galvanized tin.
14. Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation. The City may order any dilapidated, dangerous, or non-conforming fence removed at the owner's expense.
15. Electric and barbed wire fences are prohibited within the R-1 District.
16. Fences in a front yard and/or street side yard shall contain openings constituting a minimum of fifty percent (50%) of the surface area and shall be situated or constructed in such a way as not to obstruct the vehicular traffic or otherwise create a traffic hazard.
17. A six foot (6') tall, closed fence shall be required on any residential property that has a swimming pool. The swimming pool shall be enclosed by a fence or a combination of fencing and permanent buildings (i.e. a detached garage, house, etc.). Fencing or permanent buildings used to enclose the swimming pool do not have to be directly alongside the border of said pool. Any gate used on a protective fence shall be lockable and maintained in a locked state when the pool is not in use.

18. The maximum height requirements, measured from the top of the fence to the lowest point at the base of the fence, shall be as follows:
- a. *Corner Lots.*
 - i. Front Yard - Forty-eight inches (48") or four feet (4') in height.
 - ii. Street Side Yard - Forty-eight inches (48") or four feet (4') in height.
 - iii. Non-Street Side Yard - Seventy-two inches (72") or six feet (6') in height from the rear property line to the front corner of the house, then forty-eight inches (48") or four feet (4') in height.
 - iv. Rear Yard - Seventy-two inches (72") or six feet (6') in height from corner of house to non-street side yard and forty-eight inches (48") or four feet (4') in height on street side yard.



- b. *Other Lots.*
 - i. Front Yard – Forty-eight inches (48”) or four feet (4’) in height.
 - ii. Side Yard – Seventy-two inches (72”) or six feet (6’) in height from rear property line to the front corner of the house, then forty-eight inches (48”) or four feet (4’) in height.
 - iii. Rear Yard – Seventy-two inches (72”) or six feet (6’) in height.



C. Utilities.

1. All residential dwelling units including single-family units, multi-family units and mobile homes located within the City corporate limits shall utilize municipal water and sewer facilities and shall do so at the owner's expense.
2. Notwithstanding other provisions of this Ordinance, all dwellings hereafter erected, enlarged or reconstructed shall conform to the regulations of Title 124 – Rules and Regulations for the Design, Operation and Maintenance of Onsite Wastewater Treatment Systems, as adopted by the Nebraska Department of Environmental Quality.

D. Off-Street Parking.

1. **Size of Spaces.** Each required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length. The minimum length of parallel parking spaces shall be at least twenty-three (23) feet and further provided that parking space dimensions for handicapped drivers shall be as established in the standards set forth in the Americans with Disabilities Act. Such Parking spaces shall have adequate vertical clearance to allow each space to be used for parking.
2. **Location of Spaces.** All parking spaces required to serve buildings or uses shall be located on the same lot as such building or use; provided, that if no parking space can be reasonably provided on the same lot, such space shall be provided on any off-street lot, a substantial portion of which is within three hundred (300) feet of such use.
3. **Access.** Except for single family and two-family dwellings, each required off-street parking space shall open directly upon a driving aisle of sufficient width, in order to provide an efficient means of vehicular access to and from such parking spaces and such driving aisles shall be unobstructed and allow for passage of emergency vehicles.
4. **Lighting.** Any lighting used to illuminate off-street parking or loading areas shall be directed away from residential properties in such a way as not to interfere with such residential use.

5. **Parking for People with Disabilities.** Each off-street parking facility shall provide the number of parking spaces shown in the table below and shall be designed and designated for use by people with disabilities. Every eighth (8th) accessible parking space shall be van-accessible. Design criteria and dimensions shall be in compliance with the standards of the Americans with Disabilities Act (ADA). Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

NUMBER OF STALLS	MIN. REQUIRED ACCESSIBLE SPACES	NUMBER OF STALLS	MIN. REQUIRED ACCESSIBLE SPACES
1-25	1	201-300	7
26-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of total
101-150	5	1,001 and over	20, plus 1 for each 100 stalls over 1,000
151-200	6		

6. **Mixed-Use.** Parking requirements for buildings containing more than one use shall be established by determining the required number of spaces for each use considered independently, unless otherwise authorized by the City Council.
7. **Minimum Off-Street Parking Requirements.** See table below.

USES	PARKING REQUIREMENTS	LOADING REQUIREMENTS
<i>Commercial/Office Uses including, but not limited to:</i>		
Agricultural Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Auditoriums/Stadiums/Arenas	1 space/4 seats in main assembly area	None required
Automotive Rental/Sales	1 space/500 s.f. of gross floor area	1 space/establishment
Automotive Servicing	4 spaces/repair stall	None required
Boarding Houses/Bed & Breakfasts	1 space/rental units	None required
Body Repair	5 spaces/repair stall	None required
Bowling Alleys	4 spaces/alley + 1 space per 2 employees	1 space/establishment
Campground	1 space/camping unit	None required
Child Care Centers	1 space/employee + 1 space or loading stall/each 5 persons of licensed capacity	None required
Churches/Synagogues/Temples	1 space/4 seats in main worship area	None required
Clubs, including Fraternal Organizations	1 space/500 s.f. of gross floor area	None required
Commercial Recreation	1 space/2 persons of licensed capacity	1 space/establishment
Communication Services	1 space/500 s.f. of gross floor area	1 space/establishment
Construction Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Dance Hall/Skating Rink	1 space/100 square feet of floor area + 1 space/2 employees	None required
Educational Uses, Primary Facilities	2 spaces/classroom	2 spaces/structure
Educational Uses, Secondary Facilities	8 spaces/classroom + 1 space/employee on largest shift	2 spaces/structure
Equipment Rental/Sales	1 space/500 s.f. of gross floor area	1 Space/establishment
Food Sales (Limited)	1 space/300 s.f. of gross floor area	1 space/establishment
Food Sales (General)	1 space/200 s.f. of gross floor area	2 spaces/establishment
Funeral Homes/Mortuaries/Chapels	8 spaces/reposing room	2 spaces/establishment
General Retail Sales Establishments	1 space/200 s.f. of gross floor area	1 space/establishment

USES	PARKING REQUIREMENTS	LOADING REQUIREMENTS
Guidance Services	1 space/300 s.f. of gross floor area	None required
Hospitals	1 space/2 licensed beds	3 spaces/structure
Hotels/Motels	1 space/rental unit + 1 space/each 200 s.f. of public meeting area	1 space/establishment
Laundry Services	1 space/200 s.f. of gross floor area	None required
Libraries	1 space/400 s.f. of gross floor area + 1 space/ 2 employees	1 space/structure
Medical Clinics	5 spaces/staff doctor, dentist, chiropractor	None required
Offices/Office Buildings	1 space/300 s.f. of gross floor area + 1 space/2 employees	None required
Restaurants (with Drive-Thru)	Greater of the two: 1 space/40 s.f. of dining area, or 1 space/150 s.f. of gross floor area	1 space/establishment
Restaurants (General)	30% of licensed capacity	2 spaces/establishment
Roadside Stands	4 spaces/establishment	None required
Service Oriented Establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Theaters/Auditoriums/ Places of Assembly	1 space/4 persons of licensed capacity	1 space/establishment
Veterinary Establishments	1 spaces/500 square feet/staff doctor	None required
<i>Residential/Housing Uses including, but not limited to:</i>		
Assisted-Living Facilities	0.5 space/dwelling unit	1 space/structure
Convalescent/Nursing Home Services	1 space/4 beds + 1/employee on the largest shift	2 space/structure
Duplex	2 spaces per dwelling unit	None required
Group Care Facility	1 space/4 persons of licensed capacity	2 space/structure
Group Home	1 space/4 persons of licensed capacity	2 space/structure
Multi-Family/Apartments	1 space/sleeping unit (spaces to be sited in the general proximity of sleeping units' location)	None required
Mobile Home Park	2/dwelling unit	None required
Residential, Single-Family (Attached or Detached)	2 spaces/dwelling unit (1 may be enclosed or semi-enclosed)	None required
<i>Industrial Uses including, but not limited to:</i>		
Adult Entertainment Establishments	1 space/2 persons of licensed capacity	None required
General Manufacturing	0.75 times the maximum number of employees during the largest shift	2 spaces/establishment
Wholesale/Distribution Operations	1 space/2 employees on the largest shift	spaces/establishment

- E. Landscaping.
Maximum three (3) feet in height for any shrub or tree planted within the City right-of-way or any easements.
- F. Signage.
1. **Computation of Area of Individual Signs.** The area of a sign 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 regulations and is clearly identical to the display itself.
 2. **Computation of Height of Signs.** 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. 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 lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.
 3. **Permitted Signage.** Permitted signs and the maximum number of signs allowed per lot and the maximum surface area and maximum height of each signage type for the Residential District. Signs meeting the definition of “Abandoned Sign” must be removed at the expense of the owner.

TYPE OF SIGNAGE	P/NP/T	MAX. SURFACE AREA (sq. ft.)	MAXIMUM HEIGHT (ft.)	MAXIMUM NUMBER
Animated	NP	-	-	-
Announcement	P	6	4	1
Architectural Canopy	NP	-	-	-
Banner	NP	-	-	-
Changeable Copy	NP	-	-	-
Destination	P	16	8	1
Electronic Message Board	NP	-	-	-
Flashing	NP	-	-	-
Freestanding	T	32	4	1
Ground	NP	-	-	-
Illuminated	NP	-	-	-
Marquee	NP	-	-	-
Nameplate	P	2	-	1
Off-Premises (Billboard)	NP	-	-	-
On-Premises (Billboard)	NP	-	-	-
Pennant	NP	-	-	-
Pole	NP	-	-	-
Portable	T	32	4	1
Projecting	NP	-	-	-
Roof	NP	-	-	-
Roof-Integrated	NP	-	-	-
Subdivision	P	100	10	1
Suspended	NP	-	-	-
Temporary	P	50	8	2
Wall	NP	-	-	-
Window	NP	-	-	-
P = Permitted		NP = Not Permitted	T = Temporary	

4. **Signs, Special Conditions.**

- a. *Billboard Signs.* Billboards, signboards, and other similar signs shall be subject to the same height and location requirements as other structures within the district and shall also be subject to the following conditions and restrictions.
 - i. 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.
 - ii. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
 - iii. 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.
- b. *Hanging Signs.* Signs hung from canopies and awnings shall maintain 80-inches of clear space, as measured from the bottom edge of the sign to the grade below.
- c. *Temporary Signs.* Temporary signs may be for a continual period. Said temporary signs shall not be in place for more than four days prior to the event and shall be removed within 36 hours of the conclusion of said event.
- d. *Signs on Public Property.* Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- e. *Signs Exempt from Regulation.* The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, of this Ordinance and/or a collision hazard to the public:
 - i. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
 - ii. Any religious symbol;
 - iii. Construction signs on the construction site, visible from the public right-of-way, is removed at, or prior to, the end of the construction period;
 - iv. Any sign identifying a public facility or public/civic event;
 - v. Any sign inside a building, not attached to a window or door, that is not legible from more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
 - vi. Holiday lights and decorations with no commercial message;
 - vii. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
 - viii. A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

G. Home Occupations/Home-Based Businesses.

A home occupation may be allowed as a permitted accessory use provided all of the following conditions are met:

1. Home occupations shall not occupy more than thirty percent (30%) of the total floor area of the main building, or if located in an accessory building, shall not occupy more than fifteen percent (15%) of the total lot area.
2. The operation shall not substantially increase traffic in the area.
3. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
4. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living and no others.
5. Such use shall be clearly incidental and secondary to the use of the dwelling for the dwelling purposes and shall not change the character thereof.
6. No sign shall exceed sixteen (16) square feet in area and shall not be illuminated.
7. There shall be no exterior storage, on the premises, of material or equipment used as a part of the home occupation.
8. A home occupation shall provide additional parking area adequate to accommodate all needs created by the home occupation and shall be subject to review by the Planning Commission.
9. No alteration of the exterior of the principal residential building or accessory building shall be made, which changes the character thereof as a residence or negatively impacts the character of the neighborhood.

H. Mobile/Manufactured Homes.

All mobile/manufactured homes located within the Residential District shall meet the following standards:

1. The home shall have no less than nine hundred (900) square feet of floor area.
2. The home shall have no less than an eighteen (18) foot exterior width.
3. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
5. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock.
6. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
7. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
8. The home must meet building code requirements adopted by the City.
9. The home shall be set on a permanent masonry or concrete foundation.

I. Solar Panels.

No solar panel/equipment shall be constructed within the R-1 Residential District of the City of Indianola unless a permit therefore is approved and issued by the City Council and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing, and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

1. **Lot and Height Requirements.** Solar panels shall conform to the required front, side, street side, and rear lot setback requirements except as provided herein:
 - a. A solar panel which is attached to an integral part of the principal building may project three feet into the front yard and street side yard; six feet into the rear yard; and two feet into the side yard.
 - b. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard, front yard or street side yard.
 - c. Roof mounted panels shall not comprise more than 50% of the roof of no more than one building on the property.
2. **Structural Requirements.** The physical structure and connections to existing structures shall conform to all applicable building codes.
3. **Plot Plan.** The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
4. **Permit Fee.** A permit fee is required. This permit fee shall be paid prior to the issuance of the Zoning permit. The amount of the fee shall be as established by the City of Indianola.
5. **Pre-Existing Solar Panels.** Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to August 1, 2017, pursuant to a valid zoning permit issued by the City, may continue to be utilized so long as it is maintained in operational condition.

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ARTICLE 7: DOWNTOWN COMMERCIAL DISTRICT (C-1) REGULATIONS

The intent of this district is to provide a zone which will accommodate the broad range of retail shopping activities and service and office uses that are normally found in the core area of a City.

7-1. PERMITTED USES

- A. Amusement places (indoors), including video games, arcades, game machines, pool halls, and other similar establishments.
- B. Animal hospitals, clinics and kennels providing the establishment and runs are completely enclosed in a building.
- C. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
- D. Apartments on floors other than the ground (main) floor.
- E. Apparel and accessory stores.
- F. Art and Art supply stores.
- G. Artist studio.
- H. Auditoriums and similar places of public assembly.
- I. Automobile accessory and supply store.
- J. Automobile parking lots and garages.
- K. Bait Shop.
- L. Bakery and pastry shop (retail only).
- M. Banks and other savings and lending institutions.
- N. Barber shops, beauty shops, chiropractor, massage, or similar personal services.
- O. Bicycle shops.
- P. Books and stationary stores.
- Q. Bowling alleys.
- R. Business and technical schools including schools for photography, dancing, and music.
- S. Business machine repair, sales, and services.
- T. Churches and places of worship.
- U. Cigar and tobacco stores.
- V. Clothing and costume rental.
- W. Commercial recreation centers.
- X. Custom dressmaking, millinery, tailoring and similar trades.
- Y. Delicatessens and catering establishments.
- Z. Department stores.
- AA. Drug stores and prescription shops.
- BB. Dry cleaning and laundry establishments.
- CC. Dry goods and notion stores.
- DD. Fire stations, police stations and jails.
- EE. Fix-it shops (radio, television, and small household appliances).
- FF. Florist and gift shop.
- GG. Furniture and home furnishing stores.
- HH. Government administrative buildings.

- II. Grocery stores.
- JJ. Hardware stores.
- KK. Hobby, stamp, and coin shops.
- LL. Hotels and Motels.
- MM. Household appliance stores.
- NN. Interior decorator's shops.
- OO. Jewelry and metal craft stores and shops.
- PP. Leather goods and luggage stores.
- QQ. Library and museum (public).
- RR. Lock and key shops.
- SS. Mail order catalog stores.
- TT. Meat locker or meat market.
- UU. Medical and orthopedic appliance stores.
- VV. Medical, dental and health clinics.
- WW. Meeting halls and auditoriums.
- XX. Messenger and telegraph service stations.
- YY. Music instrument sales and repair shop.
- ZZ. Newspaper offices.
- AAA. Newsprint, job printing, and printing supply stores.
- BBB. Newsstand.
- CCC. Office supply and office equipment stores.
- DDD. Offices and office buildings.
- EEE. Optician and optometrists.
- FFF. Package liquor stores.
- GGG. Paint and wallpaper stores.
- HHH. Parking lots and garages.
- III. Parks and open spaces.
- JJJ. Pawn shops.
- KKK. Pet shops.
- LLL. Photographic equipment sales and supply stores.
- MMM. Photographic studios.
- NNN. Picture framing studios.
- OOO. Plumbing, heating, ventilation, air conditioning, and electrical shops including related fabrication.
- PPP. Post office.
- QQQ. Printers.
- RRR. Private clubs and lodges.
- SSS. Radio and television studios.
- TTT. Restaurants, excluding drive-ins.

- UUU. Self-services laundries and dry-cleaning establishments.
- VVV. Service stations.
- WWW. Sewing machine shops and stores.
- XXX. Shoe repair shops.
- YYY. Shoe stores.
- ZZZ. Sporting and athletic goods stores.
- AAAA. Stores and shops for the conduct of retail and service business similar to the uses listed in this section.
- BBBB. Tailor shops.
- CCCC. Taverns.
- DDDD. Theaters.
- EEEE. Toy stores.
- FFFF. Travel bureaus.
- GGGG. Upholstery – furniture.
- HHHH. Utility company office.
- III. Variety stores.
- JJJJ. Watch repair shops.
- KKKK. Accessory buildings and uses customarily incidental to the above uses.

7-2. CONDITIONAL USES

The following conditional uses may be permitted subject to approved procedures outlined in these Regulations.

- A. Communication Towers. (See Communication Tower Section)
- B. Motor Vehicle Repair Service, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the building officials to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six feet and a visual density of no less than ninety percent (90%).
- C. Motor Vehicle Body Shop, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Building Official to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six feet and a visual density of no less than ninety percent (90%).
- D. Residential Uses, other than apartments which are allowed as a permitted use.
- E. Restricted (Adult Entertainment) Businesses.
- F. Wholesale Establishments, except those which handle products of a highly explosive, combustible, or volatile nature.

7-3. SITE DEVELOPMENT REGULATIONS

REGULATOR	USES PERMITTED
Minimum Lot Area	None
Minimum Lot Width (feet)	None
Minimum Lot Depth (feet)	None
Minimum Yards (feet)	
Front Yard	None
Side Yard	None
Street Side Yard	10
Rear Yard	None
Maximum Height (feet)	None

7-4. SUPPLEMENTAL REGULATIONS

- A. Accessory Buildings.
No accessory building limitations pertain to the Downtown Commercial District.
- B. Fences.
All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot within a Residential District shall be conducted wholly within an enclosed building unless screened from the Residential District by a sight-obscuring barrier permanently maintained at least six (6) feet in height.
- C. Utilities.
All businesses located within the Downtown Commercial District shall utilize municipal water and sewer facilities at the owner's expense.
- D. Off-Street Parking.
No off-street parking requirements pertain to the Downtown Commercial District.
- E. Landscaping.
Maximum three (3) feet in height for any shrub or tree planted within the City right-of-way or any easements.
- F. Signage.
 1. **Computation of Area of Individual Signs.** The area of a sign 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 regulations and is clearly identical to the display itself.
 2. **Computation of Height of Signs.** 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. 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 lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

3. **Permitted Signage.** Permitted signs and the maximum number of signs allowed per lot and the maximum surface area and maximum height of each signage type for the Downtown Commercial District. Signs meeting the definition of “Abandoned Sign” must be removed at the expense of the owner.

TYPE OF SIGNAGE	P/NP/T	MAX. SURFACE AREA (sq. ft.)	MAXIMUM HEIGHT (ft.)	MAXIMUM NUMBER
Animated	NP	-	-	-
Announcement	P	32	4	1
Architectural Canopy	P	250	45	1 ¹
Banner	NP	-	-	-
Changeable Copy	NP	-	-	-
Destination	P	16	8	1
Electronic Message Board	NP	-	-	-
Flashing	NP	-	-	-
Freestanding	T	32	4	1
Ground	NP	-	-	-
Illuminated	NP	-	-	-
Marquee	NP	-	-	-
Nameplate	P	2		1
Off-Premises (Billboard)	NP	-	-	-
On-Premises (Billboard)	NP	-	-	-
Pennant	NP	-	-	-
Pole	NP	-	-	-
Portable	T	32	4	1
Projecting	P	20	10 ³	1
Roof	NP	-	-	-
Roof-Integrated	NP	-	-	-
Subdivision	P	100	10	1
Suspended	NP	-	-	-
Temporary	P	<i>(reference corresponding type of signage)</i>		
Wall	P	200 ²	45	1
Window	P	200 ²	15	1
P = Permitted		NP = Not Permitted	T = Temporary	

¹ One Canopy per window – canopy shall meet all minimum height requirements for accessibility.

² Wall/Window signs shall not exceed 10 percent of the total wall area.

³ Projecting signs shall maintain 80-inches of clear space, as measured from the bottom edge of the signs to the grade below.

4. **Signs, Special Conditions.**

- a. *Billboard Signs.* Billboards, signboards, and other similar signs shall be subject to the same height and location requirements as other structures within the district and shall also be subject to the following conditions and restrictions.
 - i. 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.
 - ii. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
 - iii. 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.
- b. *Hanging Signs.* Signs hung from canopies and awnings shall maintain 80-inches of clear space, as measured from the bottom edge of the sign to the grade below.
- c. *Temporary Signs.* Temporary signs may be for a continual period. Said temporary signs shall not be in place for more than four days prior to the event and shall be removed within 36 hours of the conclusion of said event.
- d. *Signs on Public Property.* Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- e. *Signs Exempt from Regulation.* The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, of this Ordinance and/or a collision hazard to the public:
 - i. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
 - ii. Any religious symbol;
 - iii. Construction signs on the construction site, visible from the public right-of-way, is removed at, or prior to, the end of the construction period;
 - iv. Any sign identifying a public facility or public/civic event;
 - v. Any sign inside a building, not attached to a window or door, that is not legible from more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
 - vi. Holiday lights and decorations with no commercial message;
 - vii. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
 - viii. A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

G. Home Occupations/Home-Based Businesses.

A home occupation may be allowed as a permitted accessory use provided all of the following conditions are met:

1. Home occupations shall not occupy more than thirty percent (30%) of the total floor area of the main building, or if located in an accessory building, shall not occupy more than fifteen percent (15%) of the total lot area.
2. The operation shall not substantially increase traffic in the area.
3. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
4. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living and no others.
5. Such use shall be clearly incidental and secondary to the use of the dwelling for the dwelling purposes and shall not change the character thereof.
6. No sign shall exceed sixteen (16) square feet in area and shall not be illuminated.
7. There shall be no exterior storage, on the premises, of material or equipment used as a part of the home occupation.
8. A home occupation shall provide additional parking area adequate to accommodate all needs created by the home occupation and shall be subject to review by the Planning Commission.
9. No alteration of the exterior of the principal residential building or accessory building shall be made, which changes the character thereof as a residence or negatively impacts the character of the neighborhood.

H. Mobile/Manufactured Homes.

All mobile/manufactured homes located within the Downtown Commercial District shall meet the following standards:

1. The home shall have no less than nine hundred (900) square feet of floor area.
2. The home shall have no less than an eighteen (18) foot exterior width.
3. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
5. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock.
6. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
7. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
8. The home must meet building code requirements adopted by the City.
9. The home shall be set on a permanent masonry or concrete foundation.

I. Restricted (Adult Entertainment) Businesses. All adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:

1. No adult entertainment business shall be allowed within one thousand (1,000) feet of another existing adult entertainment business.
2. No adult entertainment business shall be located within two hundred and fifty (250) feet of any residentially-zoned district or five hundred (500) feet of a pre-existing school, public park, or place of worship.

3. The provisions of this chapter shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformance shall come into compliance on or before January 1, 2018, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale, or transfer of ownership of the adult entertainment business.
4. Measurement of distances. For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park, or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.

ARTICLE 8: HIGHWAY COMMERCIAL DISTRICT (C-2) REGULATIONS

The intent of this district is to provide commercial locations for uses which serve as a convenience to the traveler or require a location on a highway or arterial in order to have an efficient operation. It is further intended that the uses be of a single purpose character and not be of a nature in which people walk from store-to-store as in a nucleated center. Screening and off-street parking are required in order to reduce possible adverse effects on surrounding residential areas.

8-1. PERMITTED USES

- A. Agricultural implement/irrigation sales and service.
- B. Animal hospitals or clinics when all facilities are within an enclosed building.
- C. Automobile and truck sales and service.
- D. Automotive parts and accessory stores.
- E. Boat sales, service, and rental.
- F. Bowling alleys.
- G. Butcher, custom kill.
- H. Car washes.
- I. Child care center.
- J. Churches and places of worship.
- K. Construction equipment rental and sales.
- L. Cultural/Convention centers.
- M. Dry-cleaning and laundry establishments.
- N. Fire stations.
- O. Grocery stores.
- P. Hotels and motels including accessory service uses, such as news-stands, messenger and telegraph stations, swimming pools (for motel guests only), and flower and gift shops.
- Q. Indoor skating rinks.
- R. Lumber and building materials sales yards.
- S. Medical Office.
- T. Mini-warehouse.
- U. Mobile home and trailer sales and rental, but not including the use of a mobile home as a residence.
- V. Mortuaries.
- W. Motorcycle sales, service, and rentals.
- X. Museums.
- Y. Nursery and garden stores.
- Z. Offices, professional and medical.
- AA. Package liquor stores.
- BB. Private clubs and lodges.
- CC. Public utilities or other municipal needs.
- DD. Restaurants including drive-ins.
- EE. Retail.
- FF. Self-service laundries and dry-cleaning establishments.

- GG. Service stations, auto-body shops, or filling stations.
- HH. Sporting goods stores.
- II. Storage buildings for personal or rental unit use, used only specifically for storage.
- JJ. Taverns.
- KK. Accessory buildings and uses customarily incidental to the above uses.

8-2. CONDITIONAL USES

The following conditional uses may be permitted subject to approval procedures outlined these Regulations.

- A. Commercial recreation center.
- B. Communication Towers. (See Communication Tower Section)
- C. Contractor and electrical supply office and equipment storage yard, providing the storage yard is completely enclosed with a six-foot solid fence, wall, or hedge when adjacent to a residential district.
- D. Electric and telephone substations, regulator stations and other similar utility uses on or above the surface of the ground.
- E. Meteorological Towers. (See Wind Energy System Section)
- F. Non-Commercial Wind Energy Systems. (See Wind Energy System Section)
- G. Recreational vehicle parks subject to the following conditions:
- H. A recreational vehicle park shall be constructed to accommodate at least ten (10) vehicles.
- I. Each recreational vehicle site shall be at least 900 square feet in area and the average park density shall not exceed 30 recreational vehicles per gross acre.
- J. Provisions are made to assure surface drainage so as to prevent accumulation of stagnant water.
- K. All internal roads shall be at least twenty (20) feet in width and shall be paved with asphalt, concrete, asphaltic concrete, or other approved all-weather surfacing. Dead-end streets longer than 100 feet shall provide a turnaround area at their terminus with a radius of no less than 60 feet.
- L. The grade of individual recreational vehicle stands shall not exceed 3 inches per 10 feet across the width of the stand.
- M. All utilities, water and sewer connections and facilities shall be approved by the Zoning Administrator.
- N. No vehicle may remain at a recreational vehicle park for more than thirty (30) consecutive days.
- O. Restricted (Adult Entertainment) Businesses.
- P. Telephone exchanges, electric substations, or other similar public utilities. Outdoor amusement establishments such as amusement parks, permanent carnival and kiddie parks, miniature golf and pitch and putt courses, driving ranges and other similar establishments.

8-3. SITE DEVELOPMENT REGULATIONS

REGULATOR	USES PERMITTED
Minimum Lot Area	10 acres
Minimum Lot Width (feet)	200
Minimum Lot Depth (feet)	200
Minimum Yards (feet)	
Front Yard	50
Side Yard	25
Street Side Yard	50
Rear Yard	100
Maximum Height (feet)	35*

8-4. SUPPLEMENTAL REGULATIONS

- A. Accessory Buildings.
No accessory building limitations pertain to the Highway Commercial District.
- B. Fences.
All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a Residential District shall be conducted wholly within an enclosed building unless screened from the Residential District by a sight-obscuring barrier permanently maintained at least six (6) feet in height.
- C. Utilities.
 - 1. All industries located within the corporate limits must utilize municipal water and sewer facilities at the owner’s expense.
 - 2. Business and industries located outside the corporate limits (within one-mile radius) which are not served by public water and/or sewer systems shall meet the requirements of Title 124 – Rules and Regulations for the Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, as adopted by the Nebraska Department of Environmental Quality.
- D. Off-Street Parking.
 - 1. **Size of Spaces.** Each required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length. The minimum length of parallel parking spaces shall be at least twenty-three (23) feet and further provided that parking space dimensions for handicapped drivers shall be as established in the standards set forth in the Americans with Disabilities Act. Such Parking spaces shall have adequate vertical clearance to allow each space to be used for parking.
 - 2. **Location of Spaces.** All parking spaces required to serve buildings or uses shall be located on the same lot as such building or use; provided, that if no parking space can be reasonably provided on the same lot, such space shall be provided on any off-street lot, a substantial portion of which is within three hundred (300) feet of such use.
 - 3. **Access.** Except for single family and two-family dwellings, each required off-street parking space shall open directly upon a driving aisle of sufficient width, in order to provide an efficient means of vehicular access to and from such parking spaces and such driving aisles shall be unobstructed and allow for passage of emergency vehicles.
 - 4. **Lighting.** Any lighting used to illuminate off-street parking or loading areas shall be directed away from residential properties in such a way as not to interfere with such residential use.

5. **Parking for People with Disabilities.** Each off-street parking facility shall provide the number of parking spaces shown in the table below and shall be designed and designated for use by people with disabilities. Every eighth (8th) accessible parking space shall be van-accessible. Design criteria and dimensions shall be in compliance with the standards of the Americans with Disabilities Act (ADA). Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

NUMBER OF STALLS	MIN. REQUIRED ACCESSIBLE SPACES	NUMBER OF STALLS	MIN. REQUIRED ACCESSIBLE SPACES
1-25	1	201-300	7
26-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of total
101-150	5	1,001 and over	20, plus 1 for each 100 stalls over 1,000
151-200	6		

6. **Mixed Use.** Parking requirements for buildings containing more than one use shall be established by determining the required number of spaces for each use considered independently, unless otherwise authorized by the City Council.
7. **Minimum Off-Street Parking Requirements.** See table below.

USES	PARKING REQUIREMENTS	LOADING REQUIREMENTS
<i>Commercial/Office Uses including, but not limited to:</i>		
Agricultural Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Auditoriums/Stadiums/Arenas	1 space/4 seats in main assembly area	None required
Automotive Rental/Sales	1 space/500 s.f. of gross floor area	1 space/establishment
Automotive Servicing	4 spaces/repair stall	None required
Boarding Houses/Bed & Breakfasts	1 space/rental units	None required
Body Repair	5 spaces/repair stall	None required
Bowling Alleys	4 spaces/alley + 1 space per 2 employees	1 space/establishment
Campground	1 space/camping unit	None required
Child Care Centers	1 space/employee + 1 space or loading stall/each 5 persons of licensed capacity	None required
Churches/Synagogues/Temples	1 space/4 seats in main worship area	None required
Clubs, including Fraternal Organizations	1 space/500 s.f. of gross floor area	None required
Commercial Recreation	1 space/2 persons of licensed capacity	1 space/establishment
Communication Services	1 space/500 s.f. of gross floor area	1 space/establishment
Construction Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Dance Hall/Skating Rink	1 space/100 square feet of floor area + 1 space/2 employees	None required
Educational Uses, Primary Facilities	2 spaces/classroom	2 spaces/structure
Educational Uses, Secondary Facilities	8 spaces/classroom + 1 space/employee on largest shift	2 spaces/structure
Equipment Rental/Sales	1 space/500 s.f. of gross floor area	1 Space/establishment
Food Sales (Limited)	1 space/300 s.f. of gross floor area	1 space/establishment
Food Sales (General)	1 space/200 s.f. of gross floor area	2 spaces/establishment
Funeral Homes/Mortuaries/Chapels	8 spaces/reposing room	2 spaces/establishment
General Retail Sales Establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Guidance Services	1 space/300 s.f. of gross floor area	None required

USES	PARKING REQUIREMENTS	LOADING REQUIREMENTS
Hospitals	1 space/2 licensed beds	3 spaces/structure
Hotels/Motels	1 space/rental unit + 1 space/each 200 s.f. of public meeting area	1 space/establishment
Laundry Services	1 space/200 s.f. of gross floor area	None required
Libraries	1 space/400 s.f. of gross floor area + 1 space/ 2 employees	1 space/structure
Medical Clinics	5 spaces/staff doctor, dentist, chiropractor	None required
Offices/Office Buildings	1 space/300 s.f. of gross floor area + 1 space/2 employees	None required
Restaurants (with Drive-Thru)	Greater of the two: 1 space/40 s.f. of dining area, or 1 space/150 s.f. of gross floor area	1 space/establishment
Restaurants (General)	30% of licensed capacity	2 spaces/establishment
Roadside Stands	4 spaces/establishment	None required
Service Oriented Establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Theaters/Auditoriums/ Places of Assembly	1 space/4 persons of licensed capacity	1 space/establishment
Veterinary Establishments	1 spaces/500 square feet/staff doctor	None required
<i>Residential/Housing Uses including, but not limited to:</i>		
Assisted-Living Facilities	0.5 space/dwelling unit	1 space/structure
Convalescent/Nursing Home Services	1 space/4 beds + 1/employee on the largest shift	2 space/structure
Duplex	2 spaces per dwelling unit	None required
Group Care Facility	1 space/4 persons of licensed capacity	2 space/structure
Group Home	1 space/4 persons of licensed capacity	2 space/structure
Multi-Family/Apartments	1 space/sleeping unit (spaces to be sited in the general proximity of sleeping units' location)	None required
Mobile Home Park	2/dwelling unit	None required
Residential, Single-Family (Attached or Detached)	2 spaces/dwelling unit (1 may be enclosed or semi-enclosed)	None required
<i>Industrial Uses including, but not limited to:</i>		
Adult Entertainment Establishments	1 space/2 persons of licensed capacity	None required
General Manufacturing	0.75 times the maximum number of employees during the largest shift	2 spaces/establishment
Wholesale/Distribution Operations	1 space/2 employees on the largest shift	spaces/establishment

E. Landscaping.

1. Maximum three (3) feet in height for any shrub or tree planted within the City right-of-way or any easements.
2. A bufferyard consisting of a solid or semi-solid fence, hedge, or wall at least six feet, but not more than eight (8) feet high, and having a density of not less than seventy percent (70%) per square foot, shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the commercial development are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property.

F. Signage.

1. **Computation of Area of Individual Signs.** The area of a sign 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 regulations and is clearly identical to the display itself.
2. **Computation of Height of Signs.** 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. 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 lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.
3. **Permitted Signage.** Permitted signs and the maximum number of signs allowed per lot and the maximum surface area and maximum height of each signage type for the Highway Commercial District. Signs meeting the definition of “Abandoned Sign” must be removed at the expense of the owner.

TYPE OF SIGNAGE	P/NP/T	MAX. SURFACE AREA (sq. ft.)	MAXIMUM HEIGHT (ft.)	MAXIMUM NUMBER
Animated	P	200	45	1
Announcement	P	32	4	1
Architectural Canopy	P	250	45	1 ¹
Banner	P	32	8	3
Changeable Copy	P	32	10	2
Destination	P	16	8	1
Electronic Message Board	P	100	20	1
Flashing	NP	-	-	-
Freestanding	T	32	4	1
Ground	P	32 ²	10	1
Illuminated	P	<i>(reference corresponding type of signage)</i>		
Marquee	P	350	45	1
Nameplate	P	2	-	1
Off-Premises (Billboard)	NP	-	-	-
On-Premises (Billboard)	P	320	30	1
Pennant	P	32	-	-
Pole	P	100 ³	40	1
Portable	P	16	45	1
Projecting	P	32	4	1
Roof	P	250	45	1
Roof-Integrated	P	250	45	1
Subdivision	P	100	10	1
Suspended	P	20	10	1
Temporary	P	<i>(reference corresponding type of signage)</i>		
Wall	P	200 ⁴	45	1
Window	P	200 ⁴	15	1
P = Permitted		NP = Not Permitted		T = Temporary

¹ One Canopy per window – canopy shall meet all minimum height requirements for accessibility.

² Ground signs may be increased from 32 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign for every use/storefront.

³ Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign for every use/storefront.

⁴ Wall/Window signs shall not exceed 10 percent of the total wall area.

4. **Signs, Special Conditions.**

- a. *Billboard Signs.* Billboards, signboards, and other similar signs shall be subject to the same height and location requirements as other structures within the district and shall also be subject to the following conditions and restrictions.
 - i. 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.
 - ii. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
 - iii. 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.
- b. *Hanging Signs.* Signs hung from canopies and awnings shall maintain 80-inches of clear space, as measured from the bottom edge of the sign to the grade below.
- c. *Temporary Signs.* Temporary signs may be for a continual period. Said temporary signs shall not be in place for more than four days prior to the event and shall be removed within 36 hours of the conclusion of said event.
- d. *Signs on Public Property.* Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- e. *Signs Exempt from Regulation.* The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, of this Ordinance and/or a collision hazard to the public:
 - i. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
 - ii. Any religious symbol;
 - iii. Construction signs on the construction site, visible from the public right-of-way, is removed at, or prior to, the end of the construction period;
 - iv. Any sign identifying a public facility or public/civic event;
 - v. Any sign inside a building, not attached to a window or door, that is not legible from more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
 - vi. Holiday lights and decorations with no commercial message;
 - vii. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
 - viii. A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

G. Home Occupations/Home-Based Businesses.

A home occupation may be allowed as a permitted accessory use provided all of the following conditions are met:

1. Home occupations shall not occupy more than thirty percent (30%) of the total floor area of the main building, or if located in an accessory building, shall not occupy more than fifteen percent (15%) of the total lot area.
2. The operation shall not substantially increase traffic in the area.
3. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
4. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living and no others.
5. Such use shall be clearly incidental and secondary to the use of the dwelling for the dwelling purposes and shall not change the character thereof.
6. No sign shall exceed sixteen (16) square feet in area and shall not be illuminated.
7. There shall be no exterior storage, on the premises, of material or equipment used as a part of the home occupation.
8. A home occupation shall provide additional parking area adequate to accommodate all needs created by the home occupation and shall be subject to review by the Planning Commission.
9. No alteration of the exterior of the principal residential building or accessory building shall be made, which changes the character thereof as a residence or negatively impacts the character of the neighborhood.

H. Mobile/Manufactured Homes.

All mobile/manufactured homes located within the Highway Commercial District shall meet the following standards:

1. The home shall have no less than nine hundred (900) square feet of floor area.
2. The home shall have no less than an eighteen (18) foot exterior width.
3. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
5. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
6. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
7. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
8. The home must meet building code requirements adopted by the City.
9. The home shall be set on a permanent masonry or concrete foundation.

I. Restricted (Adult Entertainment) Businesses. All adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:

1. No adult entertainment business shall be allowed within one thousand (1,000) feet of another existing adult entertainment business.
2. No adult entertainment business shall be located within two hundred and fifty (250) feet of any residentially-zoned district or five hundred (500) feet of a pre-existing school, public park, or place of worship.

3. The provisions of this chapter shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformance shall come into compliance on or before January 1, 2018, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale, or transfer of ownership of the adult entertainment business.
4. Measurement of distances. For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park, or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.

8-5. USE LIMITATIONS

- A. All operations, activities, and storage shall be conducted entirely inside a building, or buildings, unless the nearest point of such operation or activity is more than two hundred (200) feet from the boundary of any other zoning district other than a Highway Commercial District and except that storage may be maintained outside the building and side yards or rear yards of such storage areas are separated from public streets and other properties by screening of not less than six (6) feet in height.
- B. If a lot in a Highway Commercial District adjoins a Residential District, screening shall be provided at the lot lines sufficient to protect the privacy of adjoining residential uses on a year-round basis.

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ARTICLE 9: FLOOD FRINGE (FF) & FLOODWAY (FW) OVERLAY DISTRICT REGULATIONS

9-1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, & 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, general welfare, and property of the people of the state. The Legislature, in *Nebraska Revised Statutes* Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the County, City, or Village with zoning jurisdiction over the flood-prone area. Therefore, the City Council of Indianola, Nebraska ordains as follows:

B. Findings of Fact

1. **Flood Losses Resulting from Periodic Inundation.** The flood hazard areas of Indianola, Nebraska are subject to inundation that 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 the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

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 the Findings of Fact section above, by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
3. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.

D. Adherence to Regulations

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 Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

9-2. GENERAL PROVISIONS

A. Lands to Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdictions of the City of Indianola, Nebraska identified on the Flood Insurance Rate Map (FIRM) panels 0100, 0230, 0235 shown on the Map dated November 16, 2011 as Zones A, A1-30, AE, AO, or AH and within the Zoning Districts FW and FF established in the Establishment of Zoning Districts section found later in this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the {governing body} 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 the Floodplain Management Administration and Standards for Floodplain Development regulations outlined later in this section.

- B. Rules for Interpretation of District Boundaries
The boundaries of the Floodway and the Floodway Fringe Overlay Districts shall be determined by scaling distances on the official zoning map or on the effective 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, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit their own technical evidence, if so desired.
- C. Compliance
Within identified floodplains 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.
- D. Abrogation and Greater Restrictions
This ordinance does not intend 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.
- E. 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.
- F. Warning & Disclaimer of Liability
The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of Indianola, Nebraska or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- G. 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.

9-3. ESTABLISHMENT OF ZONING DISTRICTS

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: Floodway Overlay District (FW) and Floodway Fringe Overlay District (FF) as identified in the Flood Insurance Study dated {FIS date} and on accompanying FIRM panels as previously established. The Floodway Fringe Overlay District shall correspond to flood zones A, AE, A1-30, AH, AO, AR, A99, and floodway areas in Zone AE that are identified on FIRM panels. The Floodway Overlay District shall correspond to the floodway areas in Zone AE that are identified on the FIRM panels. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

9-4. FLOODPLAIN MANAGEMENT ADMINISTRATION

- A. Designation of Floodplain Administrator. The Zoning Administrator for Indianola, Nebraska is hereby designated as the community's local Floodplain Administrator, unless the City Council designates a separate party to serve as Floodplain Administrator. The Floodplain Administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. If the local Floodplain Administrator position is unfilled, the community 'CEO' shall assume the duties and responsibilities herein.

- B. Permits Required. A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.
- C. Duties of the Floodplain Administrator. Duties of the Floodplain Administrator shall include, but not be limited to the following:
1. Review, approve, or deny all applications for floodplain development permits.
 2. 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.
 3. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
 4. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
 5. 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.
 6. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
 7. 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 the floodplain.
 8. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
 9. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
 10. Ensure comprehensive development plan as amended is consistent with this ordinance.
 11. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

D. Application for Permit & Demonstration of Compliance.

1. 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:
 - a. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
 - b. Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and locate the proposed building or development.
 - c. Indicate the use or occupancy for which the proposed development is intended.
 - d. Be accompanied by plans and specifications for proposed construction.Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
2. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
 - c. Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - d. Construction materials are flood resistant;
 - e. Appropriate practices to minimize flood damage have been utilized; and
 - f. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
3. For all new and substantially improved structures, an elevation certificate, based upon the finished construction, certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.
4. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
5. For all development proposed in the floodway, no-rise certification shall be provided to the floodplain administrator and be completed by a licensed professional engineer.
6. Letters of Map Revision: Federal regulations in Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.5 and 65.6 allow for changes to the special flood hazard area through a Letter of Map Revisions (LOMR) or a Letter of Map Revisions Based on Fill (LOMR-F), provided the community determines that the land and any existing or propose structures that would be removed from the floodplain, are "reasonable safe from flooding." The community acknowledgement form asserting this is required for a LOMR and LOMR-F applications and must be signed by the Floodplain Administrator. The Floodplain Administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
 - a. Applicant shall obtain a floodplain development permit before applying for a LOMR or LOMR-F.
 - b. Applicant shall demonstrate that the property and any existing or proposed structures will be "reasonably safe from flooding," according to the minimum design standards in FEMA Technical Bulletin 10-01.
 - c. All requirements listed in the Simplified Approach in FEMA Technical Bulletin 10-01 shall be met and documents from a professional engineering shall be provided. If all of these requirements are not met, application must provide documentation in line with Engineered Approach outlined in FEMA Technical Bulletin 10-01.

E. Flood Data Required.

1. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas 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 floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.
2. Until a floodway has been designated, no development or substantial improvement may be permitted within the 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 base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

F. Variances & Appeals.

1. **Procedures.**

- a. The Board of Adjustment, as established by Indianola, Nebraska, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- c. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska Revised Statutes Section 19-192 (for municipalities).
- d. In evaluating such appeals and requests, the Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - i. The danger to life and property due to flooding or erosion damage;
 - ii. The danger that materials may be swept onto other lands to the injury of others;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity of the facility to have a waterfront location, where applicable;
 - vi. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. 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,
 - xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

2. **Conditions for Variances.**

- a. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
- b. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- c. Variances shall only be issued based upon a determination that the granting of a variance will not result in 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.
- d. 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 mentioned below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- e. 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 an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
- f. Variances shall not be issued within any designated floodway if any increase in water surface elevations along the floodway profile during the base flood discharge would result.
- g. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- h. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- i. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.
- j. Any other such information as reasonably may be required by the Floodplain Administrator shall be provided.

G. Enforcement.

1. **Violations.**

Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

2. **Notices.**

When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- a. Be in writing;
- b. Include an explanation of the alleged violation;
- c. Allow a reasonable time for the performance of any remedial act required;
- d. Be served upon the property owner or their agent as the case may require; and
- e. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.

3. **Penalties.**

- 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, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$250, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- b. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
- c. Nothing herein contained shall prevent the Indianola, Nebraska, or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

9-5. STANDARDS FOR FLOODPLAIN DEVELOPMENT

A. General Provisions.

1. **Alteration or Relocation of a Watercourse.**

- a. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
- b. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

2. **Encroachments.**
 - a. When proposing to permit any of the following encroachments, the standards below:
 - i. Any development that will cause a rise in the base flood elevations within the floodway; or
 - ii. Any development in Zones A, A1-30, and Zone AE without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
 - iii. Alteration or relocation of a stream; then
 - b. The applicant shall:
 - i. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, part 65.12) prior to the permit for the encroachments; and
 - ii. Supply the fully approved package to the Floodplain Administrator including any required notifications to potentially affected property owners.
3. **Floodway Overlay District.**
 - a. Standards for the Floodway Overlay District (FW):
 - i. New structures for human habitation are prohibited.
 - ii. All encroachments, including fill, new construction, substantial improvements, and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during the occurrence of the base flood discharge. These developments are also subject to all the Standards for Floodplain Development outlined in this section.
 - iii. In Zone A areas, obtain, review, and reasonably utilize any flood elevation and floodway data available through federal, state, or other sources, including studies done under the standards of "Subdivision" development within a floodplain, in meeting the standards of this section.
 - b. Only uses having a low flood-damage potential and not obstructing flood flows shall be allowed within the Floodway Overlay District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway Overlay District:
 - i. Agricultural uses such as general farming, pasture, nurseries, and forestry,
 - ii. Residential uses such as lawns, gardens, parking, and play areas,
 - iii. Nonresidential uses such as loading areas, parking, and airport landing strips, and
 - iv. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, and wildlife and nature preserves.

B. Elevation & Floodproofing Requirements.

1. **Residential Structures.**
 - a. In Zones A, AE, A1-30, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
 - b. In Zone AO, all new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet.
 - c. In the floodway, new structures for human habitation are prohibited.
2. **Nonresidential Structures.**
 - a. In Zones A, AE, A1-30, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - i. The structure is watertight with walls substantially impermeable to the passage of water and
 - ii. The structure has structural components with 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. A floodproofing certificate shall be provided to the floodplain administrator as set forth in the Floodplain Management section found previously.

- b. In Zone AO, all new construction and substantial improvements shall have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet; or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - i. The structure is watertight with walls substantially impermeable to the passage of water and
 - ii. The structure has structural components with 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. A floodproofing certificate shall be provided to the floodplain administrator as set forth in the Floodplain Management Administration Section.

3. Space Below Lowest Floor.

- a. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
- b. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation 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:
 - i. A minimum of two openings having a net total area of not less than one square inch for every one (1) square foot of enclosed space,
 - ii. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

4. Appurtenant Structures.

Structures accessory to a principal building may have the lowest floor below the base flood elevation provided that the structure complies with the following requirements:

- a. The structure shall not be used for human habitation.
- b. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
- c. The floor area shall not exceed four hundred (400) square feet.
- d. The structure shall have a low damage potential.
- e. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
- f. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified for a professional engineer or licensed architect or meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space.
 - ii. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
- g. No utilities shall be installed, except electrical fixtures, in the structure, which must be elevated or floodproofed to one (1) foot above the base flood elevation.
- h. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

- i. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

5. Manufactured Homes.

- a. Require that all manufactured homes to be placed or substantially improved within floodplains on sites:
 - i. Outside of a manufactured home park or subdivision,
 - ii. In a new manufactured home park or subdivision,
 - iii. In an expansion to an existing manufactured home park or subdivision, or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home as incurred substantial damage as the result of a flood.
Be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.
- b. 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 that are not subject to the provisions of "Space Below Lowest Floor" be elevated so that either:
 - i. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - ii. 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 the requirements of manufactured home anchor requirements outlined below.
- c. New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of "Subdivision" development within a floodplain.
- d. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. If over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - i. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - ii. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - iii. Any additions to the manufactured home be similarly anchored.

6. Existing Structures.

- a. The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions below shall apply.
- b. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.
- c. Any addition, alteration, reconstruction, or improvement of any kind in an existing structure in the floodway shall comply with the provisions of the Floodway Overlay District.
- d. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

C. Design and Construction Standards.

1. **Anchoring.**

All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. **Building Materials and Utilities.**

a. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.

b. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, 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.

3. **Drainage.**

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

4. **Water Supply and Sanitary Sewer Systems.**

a. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.

b. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.

c. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.

5. **Other Utilities.**

All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

6. **Storage of Materials.**

a. 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.

b. The 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.

7. **Recreational Vehicles.**

Recreational vehicles to be placed on sites within the floodplain shall:

a. Be on site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or

c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

8. **Subdivisions.**

Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:

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

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

c. Adequate drainage is provided so as to reduce exposure to flood hazards; and

- d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

9-6. NONCONFORMING USES

- A. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that 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 twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Floodplain Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of six (6) 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, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

9-7. AMENDMENTS

- A. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be taken until after a public hearing in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Indianola. At least 10 days shall elapse between the date of this publication and the public hearing.
- B. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

9-8. 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:

- A. Area of Shallow Flooding means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- B. Appurtenant Structures means a structure on the same parcel of property as the principal structure, and use of which is incidental to the use of the principal structure. Also, shall be known as "accessory structure".
- C. Base Flood means the flood having one (1) percent chance of being equaled or exceeded in any given year.
- D. Base Flood Elevation means the elevation to which floodwaters are expected to rise during the base flood.
- E. Basement means any area of the building having its floor subgrade (below ground level) on all sides.

- F. Building means “structure.” See definition for “structure.”
- G. Development means any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.
- H. 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.
- I. 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).
- J. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas.
- K. Flood Fringe is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.
- L. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.
- M. Flood Insurance Study (FIS) is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.
- N. Floodplain means any land area susceptible to being inundated by water from any source (see definition of “flooding”). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.
- O. Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.
- P. Floodway or Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- Q. Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
- R. Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

- S. 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.
- T. 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 or modified so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- U. 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".
- V. 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.
- W. New Construction for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
- X. 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.
- Y. Obstruction means any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culvert, building. Stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collection debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission from the construction thereof obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (*Nebraska Revised Statutes 46-1601 to 46-1670 as amended*).
- Z. 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.
- AA. Post-FIRM Structure means a building that was constructed or substantially improved after the community's initial Flood Insurance Rate Map dated November 16, 2011.
- BB. Pre-FIRM Structure means a building that was constructed or substantially improved on or before the community's initial Flood Insurance Rate Map dated November 16, 2011.
- CC. Principally Above Ground means that at least 51 percent of the actual cash value of the structure is above ground.

- DD. Recreational Vehicle means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently 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.
- EE. Regulatory Flood Elevation means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.
- FF. Special Flood Hazard Area (SFHA) is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
- GG. Start of Construction means the date the floodplain development 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. "Start of construction" also 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.
- HH. 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.
- II. Subdivision means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.
- JJ. Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- KK. 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 any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- LL. Variance is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
- MM. Violation means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- NN. Watercourse means any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well-defined banks.

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ARTICLE 10: NONCONFORMITIES

10-1. GENERAL

Nonconformity's are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses. A definition of each type is as follows:

- A. **Nonconforming Lot of Record.** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to these regulations and said lot does not comply with the lot width or area requirements of the district in which it is located.
- B. **Nonconforming Structure.** A structure that existed prior to the adoption of these regulations that does not comply with the lot coverage, height, or yard requirements which are applicable to structures in the zoning district in which it is located.
- C. **Nonconforming Use.** A use of a structure or of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

10-2. NONCONFORMING LOTS OF RECORD

The zoning Administrator may issue a Building Permit for any nonconforming lot of record provided that:

- A. Said lot is shown by a recorded plat or deed to have 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 not have been prohibited by the zoning regulations.
- B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulations.
- C. Said lot can meet all yard regulations for the district in which it is located.
- D. Said lot can meet minimum sanitation requirements by either connecting to a sanitary sewer line or having adequate area to support a septic system.

10-3. NONCONFORMING STRUCTURES

- A. **Authority to Continue.** Any existing structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, as long as it remains otherwise lawful.
- B. **Enlargement, Repair, Alterations.** Any nonconforming structure, 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. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof
- C. **Damage or Destruction.** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its replacement value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of sixty (60) percent or less, no repairs or restoration shall be made unless a building permit is obtained within six months and restoration is begun within one year after the date of such partial destruction and is diligently pursued to completion.
- D. **Moving.** No nonconforming 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.

10-4. **NONCONFORMING USES.**

- A. **Authority to Continue.** Any lawfully existing use of part or all of a structure or any lawfully existing use of all of a structure or any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with the use requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

The authority to continue a nonconforming use applies to the use and its structure and passes with the title to subsequent owners.

- B. **Ordinary Repair and Maintenance.**
1. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such a structure to be unsafe and orders its restoration to a safe condition.
- C. **Extension.** A Nonconforming use shall not be extended, expanded, enlarged, or increased either in land area or floor area.
- D. **Enlargement.** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. **Damage or Destruction.** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its replacement value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is sixty (60) percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is begun within one year after the date of such partial destruction and is diligently pursued to completion.
- F. **Moving.** No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatever to any location on the same or any other lot, unless the entire structure and the use thereof and the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. Mobile homes may be replaced on an existing utility hookup outside a mobile home park unless such hookup has not been used for the previous twelve consecutive months.
- G. **Change in Use.** If no external structural alterations are made which will expand the area or change the dimensions of the existing structure any nonconforming use of a structure or structure and premises may be changed or another nonconforming use as a conditional use application, provided that the City Council, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change the City Council, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once such use has changed it may no longer be returned to the original use or any other less appropriate use.
- H. **Abandonment or Discontinuance.** When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, such use shall not thereafter be re-established or resumed and any subsequent use or occupancy of such land or buildings shall comply with the regulations of the zoning district in which such land or buildings are located.
- I. **Nonconforming Accessory Uses.** No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate unless said accessory use is permitted in the district.

- J. Nonconforming Residential Uses. Notwithstanding the provisions of Extension or Enlargement regulations in this section, any structure which is devoted to a residential use and which is located in a business or industrial district may be remodeled, extended, expanded, and enlarged; provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwellings or lodging units than such structure accommodated prior to any such work.
- K. Open Storage in Residential Districts. No use prohibited by the Open Storage section of this Ordinance shall be continued in any residential district for more than six (6) months past the effective date of this ordinance.

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ARTICLE 11: SUBDIVISION REGULATIONS

11-1. PURPOSE

The purpose of these regulations is to provide for the orderly development of Indianola and its environs; to proscribe standards for the laying out of subdivisions in harmony with the comprehensive plan; for the coordination of streets and utilities within subdivisions with other existing or planned streets and utilities; for coordination of subdivisions with other features of the comprehensive plan to provide for adequate open space for traffic, recreation, light and air; and for the distribution of population and traffic in such a manner so as to create conditions favorable to health, safety, convenience or prosperity, all in accordance with applicable state statutes.

The purpose of these regulations is to provide standards and specifications with respect to provisions for the proper location and width of streets, building lines, open spaces, safety, recreation; and, for the manner in which streets will be graded and improved; and, the extent to which water, sewer and other utility services shall be provided; and, to provide for the approval of preliminary plats and final plats and endorsement thereof by the Indianola, Nebraska Planning Commission and by the Mayor and City Council. No final plat of a subdivision shall be approved and accepted by the Indianola City Council unless it conforms to the provisions of these regulations.

11-2. APPLICABILITY

Any plat, hereafter made, for each subdivision or part thereof lying within the jurisdiction of this Ordinance, shall be prepared for approval and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract, parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or development, whether immediate or future, including the re-subdivision or re-platting of land or lots, except that the division of land when the smallest parcel created is more than ten (10) acres in area shall be exempt from these regulations. Further, the regulations set forth by this ordinance shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this ordinance except as hereafter provided.

- A. Each separate principal use/building within the jurisdiction of this Ordinance shall be situated on a separate and single subdivided lot of record unless otherwise provided in Ordinance.
- B. No subdivision of land shall be permitted within the jurisdiction of this Ordinance unless a plat is approved in accordance with the provisions of this ordinance. Further, no lot in a subdivision may be sold, transferred, or negotiated to sell, no permit to erect, alter, or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision unless a final plat has been approved by the Indianola City Council and recorded with the Red Willow County Register of Deeds.
- C. These regulations shall not apply to the following:
 - 1. To a subdivision of land whereby the smallest parcel created or remaining is more than ten (10) acres.
 - 2. The subdivision of burial lots in cemeteries.
 - 3. A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot.

11-3. PROCEDURES

- A. Pre-Application Meeting. Prior to the subdivision of any land, the subdivider or subdivider's agent shall prepare a sketch plan and shall discuss informally with the Zoning Administrator the property proposed for subdivision, with reference to these subdivision regulations and procedures, zoning regulations and controls, and the city's comprehensive and major street plans.
- B. Plat Submission Requirements. The subdivider shall submit to the City Clerk five (5) copies of the preliminary plat and supplemental material specified, with written application for conditional approval, at least ten (10) days prior to the regular meeting of the Indianola Planning Commission at which the request will be heard.

- C. Fees. Fees structures are determined by the City.
- D. Scale and Preliminary Plat Contents. Preliminary plats shall be a scale of one (1") inch to one hundred (100') feet, and shall be prepared with the following information:
1. Name, location, acreage, owner, and designer of subdivision with legal description as shown by land records.
 2. Present and proposed zoning.
 3. Date, north point, and graphic scale.
 4. Location of property lines, roads, existing utilities with size of lines, and other underground installations and easement.
 5. Names of adjoining properties or subdivisions.
 6. Proposed utility system, including water, sewer and paving.
 7. Dimensions and lot lines.
 8. Location of proposed drainage.
 9. Contours at two (2) feet minimum intervals at 1" = 100' scale.
 10. Proposed improvements and grading concepts.
 11. Location of existing buildings.
 12. Proposed easements, dedications and reservations of land required.
- E. Notification of Improvement Schedule. Subdivider shall indicate by a letter when improvements as required will be provided.
- F. Notification of County Planning Commission. The City shall notify the Red Willow County Planning Commission of any proposed subdivision plat and provide the Commission with all available materials on the proposed plat, when such proposed plat lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by that Municipality in such County. The Commission shall be given four (4) weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period shall run concurrently with subdivision review activities of the City after the Commission receives all available material for a proposed subdivision plat.
- G. Notification of School Board. At least ten (10) days prior to the Indianola Planning Commission meeting at which the preliminary plat is to be considered for approval, the Planning Commission shall submit a copy of the proposal to the School Board of each School District which the proposed development affects, and shall notify the School Board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.
- H. Approval or Rejection. After review of the preliminary plat and negotiations with the subdivider, the Indianola Planning Commission shall reject or conditionally approve the preliminary plat, within thirty (30) days after the official meeting at which the plat was considered.
- I. Approval is Conditional. Approval of a preliminary plat shall not constitute approval of the final plat; it shall be deemed an expression of approval or conditional approval of the submitted plat, as a guide for the preparation of the final plat, which will be subject to further consideration by the Indianola Planning Commission and the Indianola City Council. Any conditional approval of the preliminary plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.
- J. Public Works Plan. Upon approval of the Preliminary Plat by the Indianola Planning Commission and Indianola City Council, the approved Preliminary Plat will be forwarded to City Engineer for preparation of a Public Works Plan. Said Public Works Plan will outline the improvement needs, in conjunction with the City's present utility, drainage and street system and tentative costs.

- K. Final Plat Submission Requirements. Final plats, showing entire concept, shall be submitted to the City Clerk within one (1) year of approval of the preliminary plat, unless an extension is granted by the Planning Commission. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and State statutes; and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations.
- L. Scale and Final Plat Contents. One (1) original mylar and five (5) copies of the final plat and other exhibits required for approval shall be submitted. The final plat shall be drawn in ink on mylar and shall be at a scale of one (1') inch to one hundred (100') feet or larger. The final plat shall show the following:
1. Date, title, name, and location of subdivision.
 2. Streets and street names, lots, setback lines, lot numbers, etc.
 3. Graphic scale and north arrow.
 4. Monuments (ferrous) 1/2" diameter, minimum 24" minimum length
 5. Dimensions, angles and bearings, and complete legal description of the property.
 6. Sufficient survey data to reproduce any line on the ground.
 7. Names of adjoining subdivisions.
 8. Location and dimensions of any easements.
 9. Purpose for which sites are dedicated or reserved, and the transfer of ownership of the same.
 10. Certification by surveyor as to accuracy of survey and plat.
 11. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
 12. Certification recording the approval by the Planning Commission.
 13. Certification recording the approval by the City Council and the acceptance of any dedications.
- M. Supplementary Data Required. The final plat shall be accompanied by a Public Works Plan of all required public improvements, approved by an Engineer.
- N. Professional Assistance. The City Council or the Planning Commission may request such professional assistance as it deems necessary to properly evaluate the plats submitted.
- O. Planning Commission Recommendations. The Planning Commission shall reject or approve the final plat and have prepared a recommendation to the City Council recommending rejection or approval. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or City Council shall be given the subdivider within sixty (60) days after submission of the final plat to the Planning Commission.
- P. Administrative Subdivision. In the event that a proposed subdivision does not involve the platting and dedication of streets, extension of utility systems, change in subdivision class and type, change in zoning district, change in surface drainage, and will not result in the creation of more than three (3) lots of record, the subdivider may apply for administrative subdivision under the provisions of this section. The utilization of the administrative subdivision does not relieve the subdivider of its obligation to comply with the regulations relating to the Streets, Alleys, Sidewalks and Driveways and Utility and Drainage Facilities sections of these Zoning Regulations. The procedure for such application will be as follows:
1. Application will be made to the City Council and the City Council may act or may at their option refer the application to the Planning Commission. In the event, it is referred to the Planning Commission, the procedures outlined under the final plat provisions shall be followed.

2. The subdivider shall submit an original and five (5) copies of the plat. The original shall be drawn in ink on tracing cloth, mylar, or similar material, and shall be at a scale of 1 ' to 100 or larger. The plat shall contain the following:
 - a. Date, title, name, and location of the subdivision.
 - b. Names and locations of abutting streets and lots identifying street names and lot and block numbers.
 - c. Identification of the new lot and block numbers and set back lines.
 - d. Graphic scale and true north point.
 - e. Monuments.
 - f. Dimensions, angles and bearings and complete legal description of the property.
 - g. Sufficient surveying data to reproduce any line on the ground.
 - h. Location, dimensions, and purposes of any existing easements.
 - i. Certification by surveyor certifying to the accuracy of the survey and plat.
 - j. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
3. The plat shall be accompanied by:
 - a. Protective covenants in form for recording, if such are desired by the subdivider.
 - b. For subdivisions adjoining or touching the boundaries of Indianola's Corporate Limits; a tract or area for which annexation proceedings have been commenced; an approved subdivision which touches or adjoins Indianola's Corporate Limits, a petition signed by the owner or owners requesting annexation to the City.
 - c. Utility easements signed by the owner or owners to permit all lots created access to all utilities available in the City, including but not limited to, sanitary sewer, storm sewer, water, electrical, telephone, and cable television.

11-4. SUBDIVISION IMPROVEMENT PROCEDURE.

- A. Subdivision Improvements Guarantees. The subdivider shall pay for all improvements required for the subdivision.

In lieu of requiring the payment of all improvements, the City Council may enter into an agreement with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this Ordinance in a manner satisfactory to the City Council. To secure this agreement, the subdivider shall provide, fifty (50%) percent of actual bid cost of project within seven (7) days of the City bid letting.

- B. Inspection and Certification. The City or other authorized person shall regularly inspect construction of required improvements for defects. Upon completion of the improvements, the City or other authorized person shall file with the City Council a statement either certifying that the improvements have been completed in the specified manner or listing defects in those improvements which do not meet the requirements of the approved improvement plans and specifications.

11-5. DEDICATION OF PUBLIC LAND

- A. At the time of final plat approval by the City Council, the owners shall be required to dedicate to the public use all streets, alleys, easements, and buffer strips as required by the City Council and these Regulations. Acceptance of dedicated land shall be recorded in the minutes of the City Council.
- B. Subdividers of 'Commercial' type subdivisions may be required to dedicate land for off- street parking as determined necessary by the City Council.

11-6. SUBDIVISION ANNEXATION

- A. Subdivision Annexation of Adjoining or Contiguous Properties. All subdivisions or additions laid out adjoining or contiguous to the corporate limits may be annexed with approval, by Ordinance, following appropriate Nebraska State Statute regulations by the City Council.
- B. Subdivision Annexation of Dedicated Land or Land Served by Public Utilities. Any subdivision in which there are lands dedicated to the City or any subdivision serviced by public utilities may be annexed to the City. Before approval for the final plat is given, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.
- C. Public Services Plan. The City Council desiring to annex land shall adopt a plan for extending/providing City services to the land. The plan shall be adopted at the time of annexation or within one (1) year after the date of annexation. The plan adopted by the City Council shall contain sufficient detail to provide reasonable persons with a full and complete understanding of the intentions of the City for extending/providing City services to the land proposed for annexation. The plan shall:
 - 1. State the estimated cost impact of providing the services to such land.
 - 2. State the method by which the City plans to finance the extension of services (police, fire, snow removal, and water service) to the land and how any services already provided to the land will be maintained.
 - 3. Include a timetable for extending service to the land proposed for annexation or recently annexed land.
 - 4. Include a map, drawn to scale, clearly delineating the land proposed for annexation or recently annexed land, the boundaries of the City before the annexation, and the boundaries of the City after annexation and the general land-use pattern in the land proposed for annexation.
- D. Procedures for Annexation. Any land being annexed shall follow the procedures and requirements as outlined in the Nebraska State Statutes. These requirements include, but are not limited to:
 - 1. Written notification to property owners a minimum of 10 days prior to the public hearing at Planning Commission and City Council.
 - 2. Publication within the City newspaper a minimum of 10 days prior to the public hearing at Planning Commission and City Council.
 - 3. Planning Commission public hearing to provide the City Council with a recommendation.
 - 4. Public hearing at the City Council.
 - 5. Adoption by Ordinance following three (3) readings of said Ordinance.

11-7. VARIANCES

- A. Granting of Variances; Conditions. The Indianola Board of Adjustment may grant variances from the provisions herein, but only after determining that:
 - 1. There are unique circumstances or conditions affecting the property,
 - 2. The variance is necessary for the reasonable and acceptable development of the property in question,
 - 3. The granting of the variance will not be detrimental to the public welfare or injurious to the adjacent property.
- B. Recording of Plat. In no case shall the requirement of filing and recording a plat for subdivision be waived.
- C. Planned Development. The Indianola Board of Adjustment may also grant reasonable variances, if the subdivider concurrently submits an application for, and obtains approval of, a planned development. The subdivider shall indicate where the plans vary from the requirements of this Article and shall present sufficient evidence to support the request, indicating why the request will not be detrimental to the public health, safety, and welfare.

11-8. PUBLIC SITES AND OPEN SPACES

- A. Recreation Standards. The Indianola Planning Commission may require that land be dedicated for parks and playgrounds or other recreation purposes. Such areas shall be shown and marked on both the preliminary and final plat, as “Dedicated for Park and/or Recreation Purpose” The developer shall dedicate all such recreation areas to the City of Indianola as a condition of final subdivision plat approval. The Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than one (1) acre be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area.
- B. Recreation Sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond, A recreation site shall have a total frontage on one (1) or more streets of at least one hundred feet (100’), and no other dimension of the site shall be less than one hundred feet (100’) unless it is for a designated linear park. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the Indianola Park Board for a recommendation. All land to be reserved for dedication to the City of Indianola for park purposes shall have prior approval of the City Council and shall be shown marked on the plat “Dedicated for Park.”

11-9. VACATIONS

- A. Application. All requests for vacation shall be submitted to the City, for review and recommendation, to the Planning Commission and City Council. After approval of the vacation request by the City Council, the City will file the vacation ordinance with the appropriate office at Red Willow County.
- B. Vacation of Portions of Street Rights-of-Way. Requests may be made for vacating portions of street rights-of-way. Standard vacations will be of equal amounts on both sides of a street for a minimum of a block length corresponding to the petitioner’s request and subject to the following standards:
 - 1. Rights-of-way in excess of one hundred (100) feet shall be vacated to no less than one hundred (100) feet.
 - 2. One hundred (100) foot rights-of-way shall be vacated to no less than eighty (80) feet.
 - 3. Eighty (80) foot rights-of-way shall be vacated to no less than sixty-six (66) feet.
 - 4. Rights-of-way of sixty-six (66) feet or less shall not be vacated to a narrower width.
- C. Petition Content. The applicant’s petition shall contain a written request giving the legal description of property abutting the portion of right-of-way for which the petition is filed. Such application shall contain a statement of ownership with mailing address for abutting property. The request shall also include a plat or survey showing the width of the street, the portion of the street to be vacated and abutting property with legal description.
- D. Vacation Action. Should the City and the Planning Commission decide the request is in the best public interest and recommend approval, the following policy shall apply:
 - 1. The Planning Commission will recommend to the City Council that the petition be approved and that the vacated right-of-way revert to abutting property owners on both sides of street for entire length of block in accordance with the Nebraska Revised State Statutes.

- E. Purpose.
1. Assure even vacation on both sides of the street for the entire block, keeping the paved portion of the street (generally) in the center of the right-of-way.
 2. Assure that the vacated street right-of-way reverts to abutting property owners.
- F. Vacation of Street (Not Vacated as a Portion of a Plat Vacation). Applicant shall submit a petition and a survey showing all portions of the street requested for vacation and abutting property with legal descriptions. Such application shall contain a statement of ownership with mailing address of all lands abutting those portions of street.
1. A street may be vacated and remain the property of the City only if the City owns both sides of the street.
 2. The City may require that an easement be granted or maintained as a part of the vacation ordinance.
- G. Alley Vacation. An alley may be vacated with ownership reverting to the owners of the adjacent real estate, one-half (1/2) of the alley to owner on each side. However, when an alley is taken wholly from one (1) or more lots, its vacation shall revert the ownership to the abutting property and become part of that property. When a portion of an alley is vacated only one (1) side of its center, the title to the property shall vest in the owner of the abutting property and become part of that property.
- H. Vacation of Subdivision Plats or Portions of Subdivision Plats. An existing plat or portion of an existing plat must be vacated by ordinance prior to replatting, after hearings by the Planning Commission and City Council upon petition by the owners of such lands.
1. The ordinance granting the vacation shall specify if any public highways, streets, alleys, or other public grounds are to be retained by the City. If the City does not retain any such lands, ownership shall revert to abutting lot owners.
 2. Any vacation approved shall, at the owner's expense, be certified to the appropriate County Register of Deeds and be so recorded. The Register of Deeds shall then note such vacation on the plat by writing in plain, legible letters. Such notation shall also contain a reference to the volume and page in which the ordinance of vacation is recorded. The owners of the lands vacated shall cause the same to be replatted in accordance with the requirements of these regulations.
 3. Where a plat or portion of a plat is vacated where water, sewer, and paving are already installed, it shall be the responsibility of the petitioner to provide water and sewer to any newly created lots in the manner prescribed by the City.

11-10. AMENDMENTS

Any provision herein from time to time may be amended, supplemented, changed, modified, or repealed by the Governing Body according to law; provided, however, that such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after study and report and recommendations of the Planning Commission.

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ARTICLE 12: PUBLIC INFRASTRUCTURE REGULATIONS

12-1. STREETS, ALLEYS, SIDEWALKS, DRIVEWAYS

- A. Streets. The arrangements, character, extent, width, grade, and location of all streets shall conform to the comprehensive development plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- B. Street Extension. The street layout of the proposed subdivision shall provide for the continuation of appropriate projection of streets and alleys already existing in areas being subdivided. Where, at the determination of the City Council, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the City Council deems it necessary, such dead-end streets shall be provided with a temporary turnaround having a radius of at least fifty (50) feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case, shall a street extension be of less width than the minimum width required in these regulations for a street in its category.
- C. Dedication of Right-of-Way for New Streets. The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the comprehensive development plan. All streets classified as arterial streets by the comprehensive development plan shall have all points of access approved by the City Council. Marginal access streets may be required by the City Council for subdivisions fronting on arterial streets.
- D. Dedication of Right-of-Way for Existing Streets. Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in this Article. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one (1) side of an existing street, one half of the required right-of-way width, measured from the center line of the existing roadway, shall be dedicated.
- E. Intersections. Streets shall intersect as nearly as possible at an angle of 90 degrees. Street curb intersections shall be rounded by radii of at least twenty (20) feet. When the smallest angle of street intersection is less than 75 degrees, the City Council may require curb radii of greater length. Wherever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction. No lot or other parcel of land which abuts on and has access to either a collector or a minor street shall have a service drive, curb cut, or other means of access to an arterial street within one hundred and fifty (150) feet of the right-of-way of any street which intersects such arterial street on the side on which such lot or parcel is located.

- F. Widths, Grades and Sight Distance Requirements. Right-of-way widths, pavements widths, grades and sight distance requirements shall be as follows:

TYPE	R.O.W.	PAVEMENT	GRADE	MIN. SIGHT DISTANCE ON CURVES
Arterial Street**	*100'	48'	8%	350'
Marginal Access Streets (Frontage)	40'	30'	8%	250'
Collector Streets	*66'	36'	8%	250'
Local Streets	60'	36'	10% Av.	150'
Alleys	20'	12' residential 20' commercial	No max. No max.	None None
Cull-de-sac Streets	50' radius (no fire hydrant); 55' radius (fire hydrant at center)	36' width & 45' radius	10% Av.	150'

* Streets in these classifications shall be designed and graded to the full right-of-way widths stated.

** Determined by State Standards.

The horizontal alignment on all street except in unusual cases as determined by the Indianola Planning Commission shall as follows:

STREET TYPE	CENTERLINE RADII OF HORIZONTAL CURVES
Arterial Streets	400' Minimum
Collector Streets	300' Minimum
Local Streets	200' Minimum

- G. Marginal Access Streets (Frontage). Where a subdivision abuts or contains an existing or proposed arterial street, the City of Indianola may require access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway or which traffic volumes and vehicular speeds warrant special safety considerations, the City may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street or highway.

Where a subdivision borders on or contains a railway right-of-way or limited access highway right-of-way, the City may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

- H. Street Jogs. Street jogs with center line offsets of less than one hundred fifty (150) feet shall, be prohibited. Cul-de-sacs, minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than five hundred (500) feet and shall be provided at the closed end with a turnaround having a radius at the outside of the right-of-way of at least fifty (50') feet.

- I. Street Names. Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway, or similar suffix. Whenever street alignment changes direction more than 45 degrees without a return to the original alignment within a distance of five hundred (500') feet, then the name of the street shall be changed at the point of curvature. Whenever a cul-de-sac street serves not more than three (3) lots, the name of the intersecting street shall apply to the cul-de-sac. To avoid duplication and confusion, the proposed names of all streets shall be approved by the designated City Engineer prior to such names being assigned or used.
- J. Private Streets and Reserve Strips. There shall be no private streets platted within a subdivision. There shall be no reserve strips in a subdivision except where their control is definitely vested in the City or County under conditions approved by the Council as authorized herein.
- K. Street Surfacing. The streets in the proposed subdivision shall be paved, with Portland Cement concrete and integral curbs
- L. Blocks. Except in unusual circumstances, the maximum length of blocks shall be 600 feet.
- M. Street Name Signs. Street name signs, of a type in use throughout the City of Indianola, shall be erected by the subdivider at all intersections.
- N. Alleys. Alleys shall be provided to give access to the rear of all lots used for commercial and industrial purposes. Minimum right-of-way width of an alley shall be twenty (20') feet. Alley intersections and sharp changes in alignment shall be prohibited. Alley surfacing shall be gravel.

Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate facilities at the dead-end, as determined by the Indianola City Council. Alleys need not be provided in residential areas where the subdivider produces evidence of easements which are satisfactory to the City Council.
- O. Sidewalks. Sidewalks shall be provided and shall be constructed of Portland cement concrete. Sidewalk thickness shall be not less than four inches (4") and sidewalk width not less than four feet (4'). Sidewalks shall be built within one foot of property lines and shall be in compliance with standards of the Americans with Disabilities Act.
- P. Driveways. Driveways shall have a maximum grade of ten (10%) percent. Driveways and curb cuts shall be located not less than three (3') feet from the side lot lines. Curb cuts for straight curbs and the flare for rolled curbs shall be three (3') feet wider than the driveway pavement on each side.
- Q. Street and Walkway Lighting. All street lighting shall be approved by the City of Indianola. At a minimum, such lights shall be located at each street intersection, unless otherwise approved by the City.

12-2. STREET, UTILITY AND DRAINAGE FACILITIES

- A. Sewer and Water. All sewer, water, drainage facilities and streets shall be designed in accordance with City Engineer Specifications. Drawings and specifications shall be developed by City Engineer and constructed under City supervision.

The cost of providing this engineering service and construction will be the responsibility of the owner or developer of the tract to be subdivided or by agreement with the City.

- B. Erosion Control. The subdivider shall be required to provide for the control for greater than one (1) acre developed erosion of areas of the subdivision which are disturbed in accordance with the NPDES Construction Site Stormwater Permit.

- A. Electric, Gas, and Telephone Improvements.

1. All water, sewer and drainage utilities shall be installed prior to gas, electric or telephone service.
2. Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric, street lighting, and communications conductors may be installed underground at the option of the City Council.
3. Overhead secondary utility lines, where installed shall be located at the rear of all lots.
4. Whenever a sanitary sewer line and electric and/or telephone line is each placed underground in the same utility easement, the following provisions shall be applicable:
 - a. The total easement width shall not be less than fifteen (15') feet, and
 - b. The sanitary sewer line shall be installed within three (3') feet of the easement, and the electric and/or telephone line shall be installed within three (3') feet of the opposite side of the easement.
5. Relocation of existing utilities are at the cost of the subdivider.

12-3. ADDITIONAL IMPROVEMENTS.

- A. Extensions to Boundaries. The subdivider may be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land, as determined by the Indianola City Council.
- B. Off-site Extensions. If street or utilities are not available at the boundary of a proposed subdivision, and if the Council finds the extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a Municipal expense until some future time, the subdivider may be required, prior to the approval of the final plat, to obtain necessary easements or right-of-way and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land.

ARTICLE 13: SUPPLEMENTAL PROVISIONS

13-1. CONDITIONS REQUIRED PRIOR TO THE ISSUANCE OF PERMITS

The proposed use shall be placed on a legally existing lot, said lot shall either have been in existence prior to the adoption of this Ordinance or if created after the adoption of this Ordinance, shall meet the provisions of this Ordinance if any lot is ten (10) acres or less in size.

13-2. ACCESS REQUIREMENTS

Every building hereafter erected or moved, with the exception of non-residential agricultural related structures in the Agricultural District, shall be on a lot adjacent to a public street and all structures shall be so located on lots to provide safe and convenient access for servicing and fire protection.

13-3. MAINTENANCE OF MINIMUM LOT AREA, WIDTH AND SIZE REGULATIONS

- A. Where an individual lot was held in separate ownership from adjoining properties, or was platted prior to the effective date of this Ordinance in a recorded subdivision and has less area or less width than required in other sections of this Ordinance, such lot may be occupied according to the permitted uses provided for the district in which the lot is located, provided no lot area or lot width is reduced more than one-third (1/3) the zoning requirements otherwise specified by this Ordinance.
- B. For the purpose of complying with the provisions of this Ordinance, no part of an area or width of a lot shall be included as an area or width required for another lot.
- C. No lot shall have a front lot line or street frontage of less than twenty-five (25) feet, unless approved by the Planning Commission and City Council.
- D. The minimum lot size requirements of this Ordinance shall not apply to utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility offices, repair, storage, or production facilities).

13-4. BUILDINGS ON THE SAME LOT

Only one principal building shall be permitted on any lot within the corporate limits of the City of Indianola.

13-5. EXCEPTIONS TO HEIGHT REGULATIONS

The height limitations contained herein shall not apply to spires, belfries, cupolas, antennas water tanks, ventilators, domes, chimneys, grain elevators and accessory agricultural structures, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

13-6. OUTSIDE STORAGE OF AUTOMOBILES, VEHICLES, & MOBILE HOMES

- A. Automobiles and other vehicles which cannot meet state licensing standards for travel on public highways shall not be permitted as an accessory use in any zoning district unless otherwise provided herein or unless they are screened from public view from adjacent properties, streets, roads, or highways.
- B. A mobile home shall not be stored in any required front or side yard.

13-7. ANIMAL FEEDING OPERATIONS AND CONFINED ANIMALS

- A. Animal feeding operations shall be defined as the confined feeding of food, fur, or pleasure animals in buildings, lots, pens, pools, or ponds, which normally are not used for the raising of crops or for grazing animals. For the purpose of this Ordinance, the term animal feeding operations shall include the confined feeding of one hundred (100) or more beef cows, one hundred (100) or more dairy cattle, five hundred (500) or more swine, two thousand (2,000) or more sheep, three thousand (3,000) or more turkeys, or ten thousand (10,000) or more chickens, ducks, or geese.

- B. No animal feeding operation shall be located within one thousand (1,000) feet of an existing agricultural residential structure other than that of the owner, operator or employee of the animal feeding operation nor shall a residential structure other than that of the owner, operator or employee be located within one thousand (1,000) feet of an existing animal feeding operation.
1. Animal feeding operations and dairies shall be set back from any State or Federal highway right-of-way not less than fifty (50) feet and from any county road not less than twenty-five (25) feet.
 2. A hedge, windbreak or other planting of trees shall be planted and maintained in the fifty (50) foot setback area along the State and Federal highways. This landscaping shall be used to visually screen animal feeding operations from public view.
 3. Prior to issuance of a building permit, the applicant shall show that the proposed operation will satisfy the current standards applied to animal feeding operations or dairies by the Nebraska Department of Environmental Quality.

ARTICLE 14: CONDITIONAL USE PERMIT

14-1. CONDITIONAL USES

The City Council of the City of Indianola shall conduct public hearings and review requests for conditional uses in any district which are not permitted in those districts and shall determine any specific conditions and protective restrictions as are deemed necessary for the issue of a special permit or shall deny the issue of a permit.

14-2. INTENT AND REVIEW CONSIDERATIONS

- A. Conditional uses are generally those types of uses which, under specific conditions, shall be allowable in the district in which they are listed as conditional uses. The Planning Commission and the City Council shall consider the following in approving or denying a request for a Conditional Use Permit:
1. Impact of the use on public health, public safety, and public welfare of the community;
 2. Compatibility with land uses in the surrounding area.
 3. Conformity with the Comprehensive Plan.
 4. Positive and negative short and long-range impacts of the proposed use.
 5. The need for the use, especially at the requested location.
 6. Compatibility of the proposed land uses designated in the Comprehensive Plan.
 7. Compatibility with the intent of this Ordinance and specifically the district in which the use is proposed.
 8. If conditional uses involving utility facilities shall become permanent upon approval, it shall be noted in the application.
- B. It is understood that these conditional uses are not automatically approved after the required review. Conditions may arise which would find irresolvable conflicts between the proposed use and existing or long-term use of the area and its impact on the neighborhood or City. To the extent practical, conditions may be attached to the approval of a proposed use to assure compliance with objectives of this Ordinance and conformity to the Comprehensive Plan.

14-3. APPLICATION REQUIREMENTS

- A. All applications for a conditional use shall be submitted to the Planning Commission at least twenty (20) days prior to a regular meeting of the Commission.
- B. The application, when submitted, shall be accepted only when it includes the following information:
1. The name of the Conditional Use Permit;
 2. The name, address, and phone number of the developer;
 3. Record owner of the property and authorization from the property owner agreeing to submittal of the application if the owner is not the applicant;
 4. The name, address and phone number of the person or company responsible for the preparation of the Conditional Use Permit;
 5. Complete legal description of the property for which the application is made certified by a surveyor or engineer including the number of acres in the development in order to adequately define the location of the site;
 6. Statement of present existing land use, current zoning district and proposed land use or uses of the property;
 7. Date prepared, north arrow, scale, and location of section lines and section corners.
 8. Profiles and grades of the proposed streets and private roadways.
 9. A site and grading plan showing existing and proposed contours. Contour lines shall be shown at intervals not exceeding five feet based on USGS data. Spot elevations on a 100-foot grid shall be required to indicate topography of flat land.

10. Locations, names, tangent lengths, center line radius of each curve and its interior angle and width of all proposed and existing streets, highways, private roadways, and other public ways within and adjacent to the Conditional Use Permit.
 11. Location, width, and direction of flow of all watercourses in and adjacent to the conditional use permit, including the limits of any floodplain.
 12. Location and size of all existing septic lines, storm sewer lines, water mains, culverts, fire hydrants and existing power lines and other underground structures or cables within the proposed development and adjacent streets and roads.
 - a. If a public or community septic system is proposed, the size and location of all proposed septic lines including observation holes and any pump stations, and the location and type of any proposed community treatment facility;
 - b. If individual septic systems are proposed, percolation tests and data based on one test hole per proposed lot or certified information from a soil engineer indicating the estimated percolation rate and suitability of the soil;
 - c. If a public or community water system is proposed, the location and size of all proposed water mains, fire hydrants, storage facilities, the proposed well locations, along with data from test wells based on a 10 acres grid of the entire development showing system quality and quantity of the water obtained from the test wells, the type of water treatment to be used must be shown and documented. The results of these preliminary tests shall in no way guarantee the quality or quantity of the water to the individual lots and the data obtained shall not be used to imply that an adequate quantity or acceptable quality of water is available for the proposed planned unit development;
 13. A complete drainage study including a map of the drainage area and resulting run-off from all land lying outside the limits of the development which discharge storm water into or through the planned unit development, a map showing all internal drainage areas and resulting run-off, proposals as to how the computed quantities of run-off will be handled, and the drainage calculations and computations;
 14. Location, size, and uses of all proposed and existing buildings.
 15. A statement regarding the applicant's approach to providing and improving, if applicable, public roads, parks, and other related public improvements.
 16. All deviations from the provisions contained in these regulations and the zoning district where the property to be developed is located together with justifications for said deviations.
- C. Due to the unusual circumstances related to a particular request, or where an unusual hardship may occur, the Planning Commission may waive any of the above application requirements. Waivers authorized by the Planning Commission must be communicated to the City Council. Waivers do not preclude the City Council from requiring said information at a later date.
- D. An application fee as may be adopted by resolution of the City Council shall be submitted to cover processing and hearing costs.

14-4. PROCEDURES

- A. Upon receipt of a complete application and application fee, the Zoning Administrator shall set the request for public hearing by publishing a description of the request and the time, date and place for hearing at least ten days prior to the scheduled hearing time, date and place.
- B. An applicant may request a delay of hearing not than twice (2) after due notice to affected landowners and publication in the official county newspaper. Thereafter the applicant shall file a new application and pay a full fee for renewal of the Conditional Use Permit or Zoning Map Amendment application.
- C. The Zoning Administrator shall, prior to the hearing, accomplish the following:
 1. Determine ownership using current tax records.
 2. Refer the request to other interested agencies and City departments for comment.

3. Prepare a staff report outlining findings and recommendations that will assist the Planning Commission in making a decision in the matter.
 4. Refer the report to the Planning Commission and the applicant at least three days prior to the scheduled hearing date.
- D. The Planning Commission shall hear and review the matter and within thirty-five (35) days of the first hearing, do one of the following:
1. Recommend approval with or without conditions to the City Council and reasons for approval.
 2. Recommend denial to the City Council and reasons for denial.
 3. Table the matter for a specified period of time with the consent of the applicant for further study and review.
- E. The Planning Commission recommendations shall be forwarded to the City Council along with the application file. Recommendations shall be recorded in the Planning Commission meeting minutes or in some other written form for review by the City Council.
- F. The Zoning Administrator shall set a hearing date before the City Council and provide notification in the manner prescribed above.
- G. The City Council shall hear and review the matter and shall, within thirty-five (35) days of said hearing, do one of the following:
1. Approve the request.
 2. Approve the request with conditions necessary to protect the public health, safety and welfare.
 3. Deny the request.
 4. Table the matter for a specified period of time with the consent of the applicant for further study and review.
 5. The reasons for the City Council's action on the request shall be defined in the official minutes of the City Council's meetings.
- H. Within one (1) year of the approval, construction on the proposed project shall have commenced or the approval is void. However, the applicant may file a letter requesting an extension prior to the expiration of initial approval. The Planning Commission shall review the extension request and recommend to the City Council approval for a specified period up to twelve (12) months or denial, indicating their reasons for such action.
- I. The Planning Commission's recommendation shall be forwarded to the City Council for final disposition. The City Council shall then approve the extension up to a maximum of twelve (12) months or deny the request, defining their reasons for such action.
- J. No further extension shall be granted. After expiration, a new application is required if construction has not started and processed in the manner described herein and approved before the use could be developed.
- K. Starting of construction after approval and prior to expiration and diligently pursuing same, permanently establishes the applicant's rights to the approved use unless conditions of approval state otherwise.

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ARTICLE 15: COMMUNICATION TOWER REGULATIONS

15-1. CONDITIONAL USE PERMIT REQUIREMENT

Notwithstanding anything to the contrary contained herein, in all instances a Conditional Use Permit which fulfill the minimum and special requirements mentioned herein, must be obtained with the affirmative vote of City Council before any radio, television, personal wireless services or facilities may be constructed or operated within the jurisdiction of the City.

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the Federal government with the authority to regulate towers and antennas.

15-2. MINIMUM REQUIREMENTS

- A. The placement of wireless communication antennas or towers must comply with the following requirements:
 - 1. The antennas or tower will not interfere with the purpose for which the property is intended;
 - 2. The antennas or tower will have no significant adverse impact on surrounding private property.
 - 3. The user must obtain all necessary land use approvals and permits.

15-3. SPECIAL REQUIREMENTS

- A. The placement of wireless telecommunication antennas or towers on water tower sites will be allowed only when the following additional requirements are met:
 - 1. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
 - 2. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
 - 3. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City; and
 - 4. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
- B. In no case shall towers or antennas be allowed in designated prairie or other conservation or wildlife area unless they are to be installed in areas, which currently contain tower facilities or antennas, and in no case, shall towers or antennas be allowed in areas without road access to the base of the tower, antenna support structure or facilities.
- C. Tower setbacks shall be measured from the property line of the parcel on which it is located to the base of the tower. The setback shall not be less than one hundred ten percent (110%) of the tower height as measured from the ground level.
- D. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
- E. No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. No banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.

- G. Ground level equipment, buildings, and the tower base shall be screened from public streets and residentially zoned properties and shall not encroach in the building setback. Landscaping shall be required to screen as much of the support structure as possible. The City may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

In the event the use of any tower or antenna has been discontinued for a period of sixty (60) consecutive days, the tower or antenna shall be deemed to be abandoned. Upon such abandonment, the operator of the tower or antenna shall dismantle and remove the tower or antenna. If such tower or antenna is not removed within said sixty (60) days from the date of abandonment, the City may remove such tower or antenna, in accordance with applicable law, at the facility owner's expense.

ARTICLE 16: WIND ENERGY SYSTEM REGULATIONS

16-1. GENERAL STANDARDS

All Wind Energy Systems (WES) located within the Extra Territorial Jurisdiction of the City of Indianola shall conform to the following general standards:

- A. Clearance of rotor blades or airfoils for Commercial/Utility Wind Energy Systems must maintain a minimum of twenty (20) feet of clearance between their lowest point and the ground. Noncommercial WES shall have a minimum clearance of twelve (12) feet between their lowest point and the ground.
- B. On site signage, shall be limited to identification signs not to exceed six (6) feet and high voltage warning signs.
- C. All wind turbines part of a Commercial/Utility WES shall be installed with a monopole tower.
- D. All shall obtain a FAA permit and comply with all aviation warning requirements established by the FAA regulations and permit.
- E. All Commercial/Utility WES shall be white, grey, or other neutral non-obtrusive, non-reflective color. Blades may be black in order to facilitate deicing.
- F. All on site communication and transmission feeder lines installed as part of the Commercial/Utility WES shall be underground.
- G. Commercial/Utility WES shall not exceed fifty (50) dba at the nearest occupied dwelling.
- H. Commercial/Utility WES shall obtain FCC permits where necessary and provide evidence of permit approval.
- I. The commercial / utility WES, at the time of application for a conditional use, shall identify all county roads to be used for construction and maintenance of a WES. The conditional use applicant in coordination with the Indianola Street Commissioner shall conduct a road condition survey and written report prior to construction. The conditional use applicant shall be responsible for restoration of the road(s) and bridges to preconstruction standards as established in the report. The applicant shall be responsible for the cost of retaining outside engineering firm(s) to evaluate road condition and cost for restoration if so determined by the Planning Commission.
- J. The Commercial/Utility WES applicant shall be responsible for immediate repair of damage to drainage or irrigation systems stemming from construction, operation, or maintenance of the WES.
- K. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as oils, lubricants and solvents shall be removed from the site promptly and disposed of in accordance with all applicable local, State, and Federal regulations.
- L. A Commercial/Utility WES shall provide a decommissioning plan to the City Council at the time application is made. The plan shall include the method or means of removing the WES and accessory facilities, parties responsible for removal and site cleanup, evidence of a damage insurance liability policy, schedule for removal not to exceed ninety (90) days from approval of the plan. The applicant shall set aside three-fourths (3/4) of one percent (1%) of each towers' cost for future decommissioning upon approval of the application by the City Council. The funds are to be placed in a cash escrow account with a local bank.
- M. A Conditional Use Permit for a Commercial/Utility WES shall be reviewed each year on the anniversary of issuance. A Conditional Use Permit for a Commercial/Utility WES shall be considered null and void if the WES has not begun within one (1) year following issuance of the WES Conditional Use Permit or produced energy for one (1) year, unless a plan is submitted to the Planning Commission outlining the steps and schedule for returning the WES to service.
- N. A contractual agreement referred to as a Developers Agreement between the City Council and the commercial WES developer shall be created and made part of the Conditional Use Permit. The agreement shall detail road improvements, road reconstruction, additional right-of-way needs, location of transmission lines, easements, bond, and payment requirements.

16-2. NONCOMMERCIAL WIND ENERGY SYSTEMS

All noncommercial wind energy systems located within the Extra Territorial Jurisdiction of the City of Indianola shall conform to the following standards:

- A. Shall be systems installed to provide for full or partial onsite consumption of utility supplied electricity.
- B. Setbacks. Noncommercial WES shall be located in the rear yard of all Residential Districts; further, all towers shall adhere to the setbacks found in Table 2 within this Chapter.
- C. Tower Height. In all districts except the Agricultural District tower heights shall not exceed thirty (30) feet. Any tower exceeding thirty (30) feet shall be required to submit an application for conditional use. In the Agricultural District, there is no height limitation except that imposed by FAA regulations.
- D. Noncommercial WES shall not exceed fifty (50) dba, as measured at the closest neighboring inhabited dwelling unit. Temporary exceptions may include severe wind storms or power outages requiring higher demand.
- E. Compliance with this Ordinance.
 - 1. All noncommercial WES will require a permit.
 - 2. Permit application will include an engineered drawing showing compliance with nationally recognized building codes. The permit shall include standard drawings of the tower structure, turbine structure, footings, guy wire anchors and a professional engineers stamp.
 - 3. Evidence of notification to the servicing utility informing the utility that the noncommercial WES will be connected to the utilities grid.
 - 4. Evidence that noncommercial WES, when located within one thousand three hundred and twenty (1,320) feet of the South Platte River, has complied with the requirements found in Checklist 1 below.

16-3. METEOROLOGICAL TOWERS

All meteorological towers located within the Extra Territorial Jurisdiction of the City of Indianola shall conform to the following standards:

- A. Shall be towers which are erected primarily to measure wind speed, direction, and record other data relevant to the site of a commercial WES.
- B. Meteorological towers shall be sited according to Table 1 within this Chapter.
- C. Meteorological towers shall be a conditional use and follow the same process as outlined in Section 16-4, Item B.
- D. Meteorological towers, permanent or temporary, in excess of two hundred (200) feet in height, shall meet all FAA requirements and shall be required to apply for a permit prior to construction. Meteorological towers less than two hundred (200) feet in height shall have the guy wires clearly marked with devices common to overhead transmission lines and shall be required to apply for a permit prior to construction.
- E. Setbacks. All meteorological towers shall adhere to the setbacks established in Table 2 within this Chapter.

16-4. COMMERCIAL / UTILITY WIND ENERGY SYSTEMS

All commercial/utility wind energy systems located within the Extra Territorial Jurisdiction of the City of Indianola shall conform to the following standards:

- A. Commercial/utility WES shall be permitted as conditional uses within the districts as seen in Table 1 below.
- B. The request for a Conditional Use Permit shall include the following:
 - 1. Name(s) of project applicant.
 - 2. Name(s) of project owner.
 - 3. Legal description of the project.
 - 4. Documentation of land ownership or lease of the property.
 - 5. Site plan showing property lines, setbacks, proposed accessory buildings, wind turbine locations, transmission lines, adjacent subdivisions, homes or other structures, county and service roads, legend and scale, signature of surveyor or engineer.
 - 6. Narrative description of the project including number, type, generating capacity, tower height, rotor diameter, total height of all wind turbines including meteorological towers, height of transmission lines and capacity, lastly proposed users of project.
 - 7. Overview map of the area showing topography, location of WES owned or not owned by the applicant, public or private airfields within one mile of the proposed WES and other communication towers.
 - 8. An acoustical report that certifies the WES will meet the noise requirements of this ordinance.
 - 9. Evidence that other tower owners or lessees have been notified of the proposed WES and there will not be interference in communications.
 - 10. An Environmental Assessment Worksheet shall be prepared by a qualified environmental engineering firm when a commercial WES is located within avian migratory routes. The Environmental Assessment Worksheet shall contain an avian assessment, map of the migratory routes and recommended mitigation practices.
 - 11. A decommissioning plan as required by this Ordinance.
 - 12. Meteorological and Commercial/Utility WES towers located within one (1) mile of the South Platte River shall submit an Environmental Assessment Worksheet from the U.S. Environmental Protection Agency. Further a Conditional Use Permit shall not be issued until the applicant has completed Checklist 2 below.
 - 13. There shall be a flicker/strobe effect study provided.
- C. Aggregated Projects.
 - 1. Aggregated projects may be jointly submitted as a single application and reviewed as a single application, including public notices, public hearing and subsequent approvals or denials.
 - 2. Permits may be issued and recorded separately.
 - 3. Aggregated projects proposed shall be considered conditional uses and follow the requirements of this Ordinance.
- D. Joint Projects. Will be assessed as one project.
- E. Setbacks. All Commercial/Utility WES towers shall adhere to the setbacks found in Table 2 below.

CHECKLIST 1 – Small Wind Energy Systems
<input type="checkbox"/> U.S. Fish and Wildlife
<input type="checkbox"/> Nebraska Game and Parks
<input type="checkbox"/> Nebraska State Historical Society
<input type="checkbox"/> Public Power District
<input type="checkbox"/> City of Indianola Utilities

CHECKLIST 2 – Commercial Wind Energy Systems
<input type="checkbox"/> U.S. Fish and Wildlife
<input type="checkbox"/> U.S. Army Corps of Engineers
<input type="checkbox"/> Nebraska Department of Aeronautics/Federal Aviation Agency (FAA)
<input type="checkbox"/> Nebraska Game and Parks
<input type="checkbox"/> Nebraska State Historical Society
<input type="checkbox"/> Nebraska Department of Natural Resources
<input type="checkbox"/> Nebraska Department of Roads
<input type="checkbox"/> Public Power District
<input type="checkbox"/> City of Indianola Utilities

TABLE 1				
Zoning District	Communication Tower	Meteorological Tower	Non-Commercial WES	Commercial/Utility WES
Agriculture District (A-1)	Conditional Use	Conditional Use	Conditional Use	Conditional Use
Transitional Agriculture (TA)	Conditional Use	Conditional Use	Conditional Use	Not Permitted
Residential District (R-1)	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Downtown Commercial District (C-1)	Conditional Use	Not Permitted	Not Permitted	Not Permitted
Highway Commercial District (C-2)	Conditional Use	Conditional Use	Conditional Use	Not Permitted

TABLE 2				
Governing Entities	Communication Tower	Meteorological Tower	Non-Commercial WES	Commercial/Utility WES
Property Lines	1.1 x tower height	1.1 x tower height	1.1 x total height	½ blade diameter or 150'; whichever is greater
All Road Rights-of-Way*	1.1 x tower height	1.1 x tower height	1.1 x tower height	½ blade diameter or 150'; whichever is greater
Other Public or Private Utility Easements	1.1 x tower height	1.1 x tower height	1.1 x tower height	½ blade diameter or 150'; whichever is greater
Public and Private Airfields	Per FAA regulations	Per FAA regulations	Per FAA regulations	Per FAA regulations
Irrigation Canals	1.1 x tower height	1.1 x tower height	1.1 x tower height	½ blade diameter or 150'; whichever is greater

Note: The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a common Wind Energy System.

* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-way is known.

ARTICLE 17: BOARD OF ADJUSTMENT

17-1. CREATION

A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals. 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 member is appointed, by the Mayor and governing body, for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings.

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.

17-2. MEETING AND VOTING.

Meetings of the Board of Adjustment shall be held at the call of the 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.

Any resident or property owner in the City shall have the right to appear before the Board in regard to which they have a reasonable interest in the matter to be determined. A majority of the Board shall constitute a quorum for the transaction of business.

The concurring vote of two-thirds (2/3) of the members of the Board is necessary to decide any questions upon which the Board is required to pass. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, or decision in favor of the applicant on any matter upon which the Board is required to pass.

17-3. DUTIES.

The Board of Adjustment is hereby authorized to:

- A. Hear appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the officer charged with the administration of this ordinance, in the enforcement of these regulations.
- B. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of the Zoning Map.
- C. To authorize, upon appeal, variances from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.
 1. **Requirements for granting of a variance.**

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

 - a. Strict application of the zoning regulations will produce undue hardship.
 - b. Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
 - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

- d. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
 - e. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.
 - f. The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any ordinance or resolution.
2. **Findings by the Board.**
The Board of Adjustment shall make findings that the requirements for granting a variance have been met by the applicant for a variance. A written finding of fact should be accompanied by every decision made by the Board specifying the reason of denying to accepting the request.
3. **Conditions for granting of a variance.**
- a. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.
 - b. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.
 - c. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
 - d. The applicant shall submit a statement in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the six (6) requirements for granting a variance as outlined in this article.
 - e. The applicant shall submit a sketch, in duplicate drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.
 - f. The Board may require a performance bond to guarantee the Installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board, and shall be enforceable by or payable to the Governing body in the sum equal to the cost of constructing the required improvements.
 - g. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

17-4. APPLICATIONS

- A. Procedure. The procedure for requesting a hearing before the Board shall be as follows:
1. All applications to the Board shall be in writing on forms provided by the Board and filed with the Zoning Administrator.
 2. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place, and subject of each hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the date fixed for the public hearing.
 3. An application shall be accompanied by a filing fee determined by the City. A separate filing fee determined by the City shall be required for each request.
- B. Additional Requirements. In addition to the above requirements, certain applications require additional information as follows:
1. **Appeals and interpretations:**
 - a. An application for an appeal or interpretation shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.
 - b. A copy of the order, requirement, decision, or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
 - c. A clear and accurate, written description of the proposed use, work, or action in which the appeal or interpretation is involved and a statement justifying the appellant's position.
 - d. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

17-5. APPEALS FROM THE BOARD OF ADJUSTMENT

Any person or persons aggrieved by any decision of the Board of Adjustment, or any officer, department or board of the City of Indianola may present to the District Court a petition setting forth that any decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds of the illegality. Such petitions must be presented to the Court within fifteen (15) days after the filing of the decision in the office of the City Clerk and shall follow the provisions of the Nebraska State Statutes.

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ARTICLE 18: PLANNING COMMISSION

18-1. PLANNING COMMISSION

The Planning Commission shall consist of five (5) members who shall represent insofar as is possible professions or occupations in the City and who shall be appointed by the Mayor, by and with the approval of three-fourths (3/4) vote of the City Council. All members of the Planning Commission shall serve without compensations and shall hold no other municipal office (beyond one Planning Commission member serving on the Board of Adjustments). The terms of each member shall be three (3) years except the two (2) members of the first Commission appointed shall serve for the term of one (1) year, two (2) for a term of two (2) years and two (2) for the term of three (3) years. All members may, after a public hearing before the City Council, be removed by the Mayor and by and with the consent of a three-fourths (3/4) vote to the Council. Reasons for removal shall include but not be limited to inefficiency, neglect of duty, malfeasance in office or other good and sufficient cause vacancies occurring otherwise than through expiration of terms shall be filled for the unexpired term by the Mayor.

18-2. CHAIRMAN AND MEETINGS

The Planning Commission shall elect its chairman from its members and create and fill such other offices as it may determine. The term of the Chairman shall be one (1) year and he shall be eligible for reelection. The Commission shall hold, at a minimum, at least one (1) regular meeting during each quarter during a 12-month period, or as needed. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations which record shall be a public record.

The concurring vote of two-thirds (2/3) of the members of the Planning Commission is necessary to decide any questions upon which the Planning Commission is required to pass a recommendation onto the City Council.

18-3. FUNDS

The City Council may provide the funds, equipment, and accommodations necessary for the work of the Planning Commission but the expenditures of the Commission exclusive of gifts shall be within the amounts appropriated for that purpose by the City Council; and no expenditures shall be valid in excess of such amounts.

18-4. MUNICIPAL PLANNING

- A. It shall be the function and duty of the Planning Commission to make and adopt plans for the physical development of the Municipality including any areas outside the boundaries of the Municipality which, in the Commission's judgement, bear relation to the planning of the Municipality.
- B. The Planning Commission shall from time to time recommend to the appropriate public official's programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic educational, professional, and other organizations and with citizens with relation to the protection of carrying out of the plan.

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ARTICLE 19: ADMINISTRATION, AMENDMENT, & ENFORCEMENT

19-1. ADMINISTRATION AND ENFORCEMENT

- A. It shall be the duty of the person designated by the City Council as Zoning Administrator to administer and enforce the regulations contained herein, except that all land subdivisions shall be reviewed by the Planning Commission and approved by the City Council.
- B. No building shall be undertaken without a building permit as required by this section. Application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon as shown by a survey, the size, shape, and location of the building to be erected, and such other information as may be necessary for the enforcement of this Ordinance. A record of applications and plats shall be kept in the office of the Zoning Administrator.

Subsequent to the effective date of this Ordinance no change in the use or occupancy of land, or in the use or occupancy of an existing building other than for single-family dwelling purposes shall be made, nor shall any new building be occupied until a certificate of occupancy is issued, which shall state that the new occupancy complies with all provisions of this Ordinance.

No permit for excavation for, or the erection or alteration of, any building shall be issued before application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued. A record of all certificates of occupancy shall be kept on file in the office of the Zoning Administrator.

19-2. AMENDMENT

- A. The City Council may from time to time amend this Ordinance in the manner prescribed by law and by the statutes of the State of Nebraska. No such amendment shall be made until after it has been referred to the Planning Commission and a report has been received from said Commission concerning the effect of said amendment upon the City and the health, safety, and welfare of the inhabitants thereof.
- B. On every zoning amendment, the Commission shall hold a public hearing as required by law and is hereby designated as the body to hold such hearings. If no report is received from the Commission in 60 days, it may be assumed that said Commission has approved the amendment.

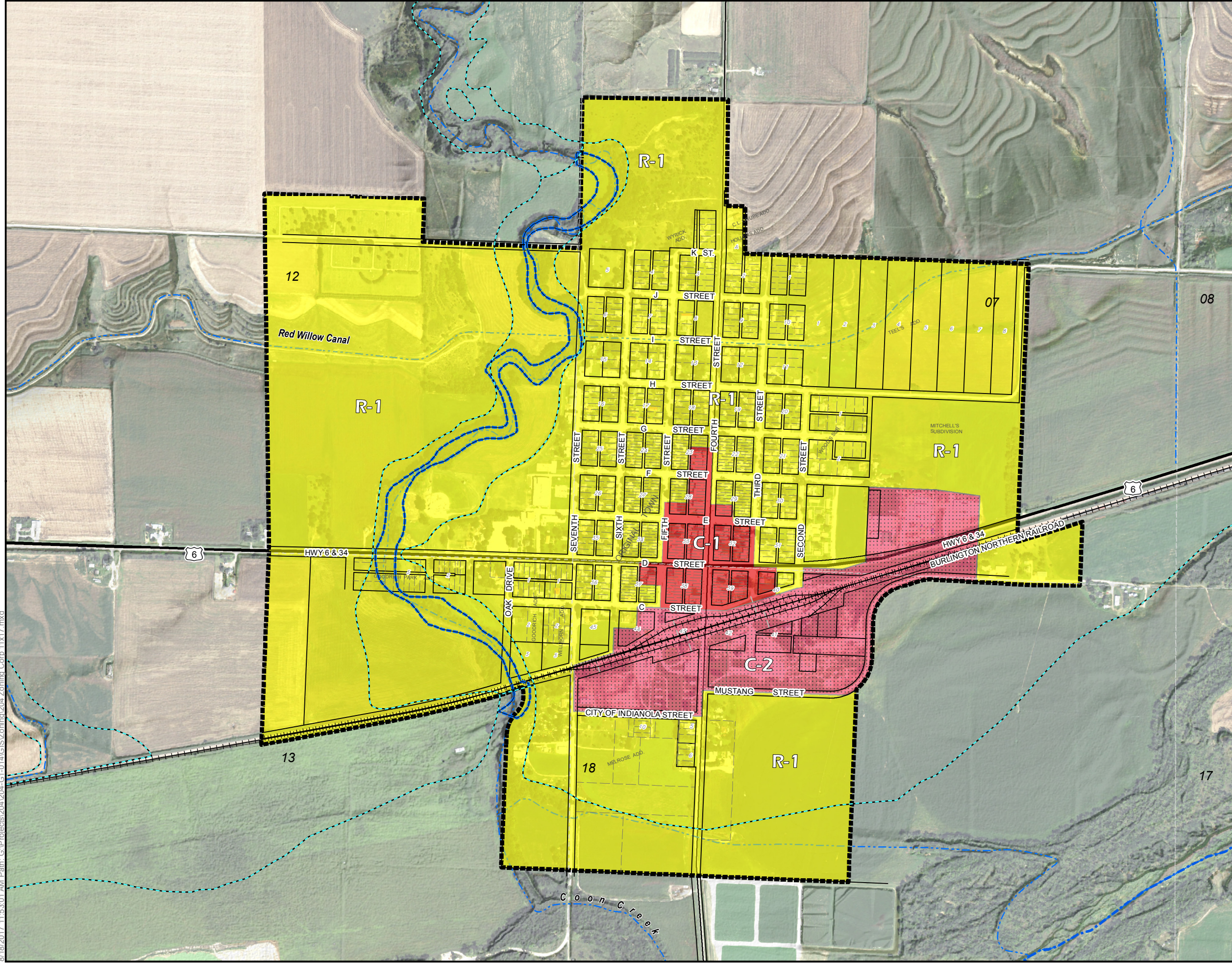
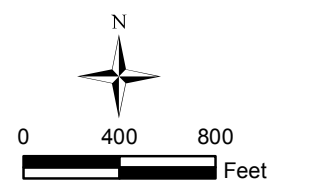
Before any action shall be taken as provided in this section, the party or parties proposing a change in the zoning regulations or district boundaries shall make a cash deposit to be determined by the Council payable to the City Clerk to cover the cost of this procedure, and under no condition shall said deposit or any part thereof be refunded for failure of said charge to be adopted by the City Council.

19-3. INTERPRETATION

- A. The minimum requirements and provisions of this Ordinance, as interpreted shall be applied for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare of the City of Indianola. The provisions of this Ordinance shall not interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except when the provisions of this Ordinance impose a greater restriction, in which instance, the latter shall apply.
- B. Where uncertainty exists with respect to the boundaries of a district as shown on the Zoning Map, the following rules shall apply:
 - 1. The district boundaries are either streets or alleys unless otherwise shown, and where the district designated on the map is bounded approximately by street or alley lines, the street or alley shall be construed to be such boundary.
 - 2. Where the district boundary is not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, such boundary shall be construed to be the lot lines, and where the district designated on the district map is bounded approximately by lot lines, such lot lines shall be construed to be the boundary of the district unless otherwise indicated on the map.
 - 3. In un-subdivided property, the district boundary shall be determined by use of the scale appearing on the map.

19-4. VIOLATION AND PENALTY

- A. 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, upon conviction, be fined for each offense and payable to the Council by the offender. The amount of the fine shall be determined by the Council. The daily continuance of each violation shall constitute a separate offense.
- B. The Council shall institute appropriate action and other remedies by appropriate authorities of the City to prevent unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use and occupancy of any building, structure or land which is in violation of this Ordinance.



Legend

- Indianola Corporate Limits
- 1-Mile ETJ

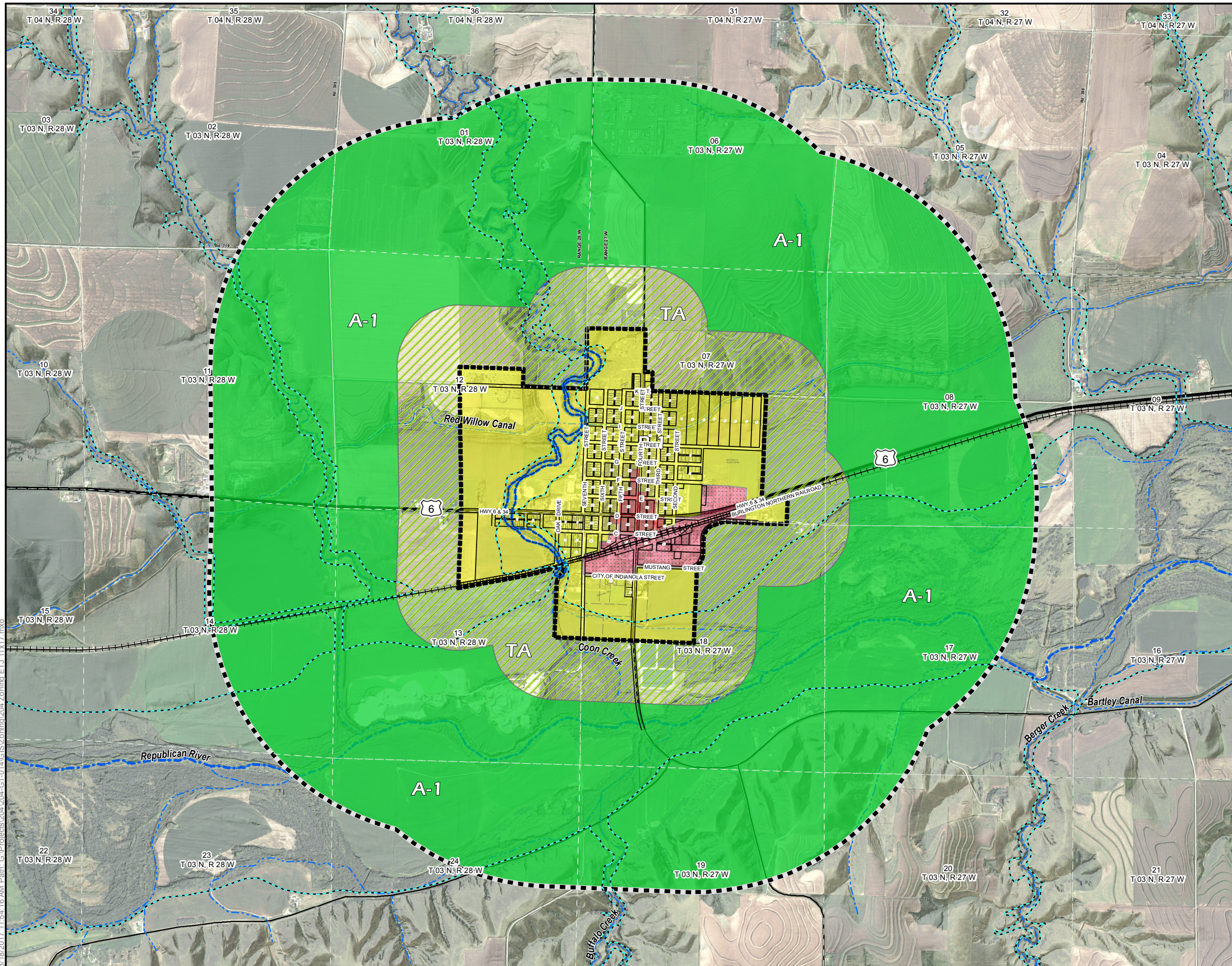
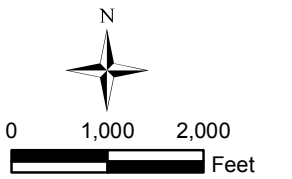
Zoning Districts

- C-1 - Downtown Commercial District
- C-2 - Highway Commercial District
- R-1 - Residential District
- FF - Floodway Fringe Overlay District
- FW - Floodway Overlay District

**Corporate Limits
 Zoning Map**

Indianola, Nebraska

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Legend

- Indianola Corporate Limits
- 1-Mile ETJ

Zoning Districts

- A-1 - Agricultural District
- TA - Transitional Agriculture District
- FF - Floodway Fringe Overlay District
- FW - Floodway Overlay District

Extraterritorial Jurisdiction Zoning Map

Indianola, Nebraska