

# Zoning and Subdivision Regulations



Gering, Nebraska

ABSTRACT

TITLE: Zoning and Subdivision Regulations  
Gering, Nebraska

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SUBJECT: Zoning and Subdivision Regulations  
for Gering, Nebraska and its two mile  
planning and zoning jurisdiction area.

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ABSTRACT: This document is developed to provide for the orderly development of Gering, Nebraska and its surrounding jurisdictional area. This document contains the necessary ordinances establishing the Zoning and Subdivision Regulations.

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PREAMBLE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, FOR THE REPEAL OF ALL ORDINANCES AND REGULATIONS IN CONFLICT HEREWITH; FOR THE CITY OF GERING, NEBRASKA.

WHEREAS, Sections 19-901 through 19-914, Reissue Revised Statutes of 1943 (in full) empowers the City to enact a zoning ordinance and to provide for its administration, enforcement and amendment, and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals, and the general welfare of the City to enact such an Ordinance, and

WHEREAS, the City Council of Gering established a City Planning Commission pursuant to Sections 18-1301 through 18-1307 and 19-901 through 19-914, Reissue Revised Statutes of 1943 (in full), and

WHEREAS, the Planning Commission has recommended the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive Plan, based on a Land Use Plan and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, and

WHEREAS, the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability of particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City, and

WHEREAS, the Planning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the City Council, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals of the general welfare of the City; of providing for the harmonious development and coordinated layout for the subdivided area; for the proper arrangements of streets; for adequate sanitary facilities; and for reducing flood damage potentials to the greatest extent possible, and

WHEREAS, all requirements of Section 18-1306, Reissue Revised Statutes of 1943 (in full), with regard to the preparation of the report of the Planning Commission and subsequent action of the City Council have been met:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GERING, NEBRASKA:

ARTICLE 1.: GENERAL PROVISIONS

SECTION 1.1: TITLE

This ordinance may be known and may be cited and referred to "Zoning Ordinance" of the City of Gering, Nebraska.

SECTION 1.2: JURISDICTION

The provisions of this Ordinance shall apply with the two mile area of planning and zoning jurisdiction as defined on the Official Zoning Map of Gering, Nebraska, as the same may be amended by subsequent annexation.

SECTION 1.3: PURPOSES AND OBJECTIVES OF THE ORDINANCE

The Zoning Ordinance is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To provide a precise plan for the physical development of the municipality in such a manner as to achieve progressively the general arrangement of land uses depicted in the Comprehensive Plan.
2. To foster a harmonious, convenient, workable relationship among local uses and a wholesome, serviceable and attractive living environment.
3. To promote the stability of existing land uses which conform with objectives and policies of the Comprehensive Plan and to protect them from inharmonious influences and harmful intrusions.
4. To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the municipality.
5. To promote the beneficial development of those areas which exhibit conflicting patterns of use.
6. To prevent excessive population densities and overcrowding of the land with structures.
7. To promote a safe, effective traffic circulation system.
8. To foster the provision of adequate off-street parking and truck loading facilities.
9. To facilitate the appropriate location of public facilities and institutions.

10. To protect and promote appropriately located agricultural, commercial, and industrial pursuits in order to preserve and strengthen its economic base.
11. To protect and enhance real property values.
12. To conserve the municipality's natural assets and to capitalize on the opportunities offered by its terrain, soils, vegetation and waterways.
13. To coordinate policies and regulations relating to the use of land with such policies and regulations of incorporated municipalities of the county in order to: Facilitate transition from county to municipal jurisdiction that land which is first developed in an unincorporated area and is subsequently annexed to a municipality; foster the protection of farming operations in areas of planned urban expansion, and ensure unimpeded development of such new urban expansion that is logical, desirable and in accordance with objectives and policies of the Comprehensive Plan.

ARTICLE 2.: APPLICATION OF REGULATIONS

SECTION 2.1: GENERAL

The zoning regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

SECTION 2.2: ZONING AFFECTS EVERY BUILDING AND USE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located.

SECTION 2.3: PERFORMANCE STANDARDS

No building or other structure shall hereafter be erected or altered;

1. To exceed the height or bulk;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein require; or on any other manner contrary to the provisions of this Ordinance.

SECTION 2.4: OPEN SPACE, OR OFF-STREET PARKING OR LOADING SPACE

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

SECTION 2.5: YARD AND LOT REDUCTION PROHIBITED

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 2.6: PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general

welfare. Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other Ordinance, the provisions of this Ordinance shall govern. Whenever the provisions of any other Ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance the provisions of such Ordinance shall govern.

ARTICLE 3: CONSTRUCTION AND DEFINITIONS

SECTION 3.1: CONSTRUCTION

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of the Ordinance.

- 3.101 TENSE: Words used in the present tense include the future tense.
- 3.102 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.
- 3.103 SHALL AND MAY: The word "shall" is mandatory; the word "may" is permissive.
- 3.104 GENDER: The masculine shall include the feminine and the neuter.
- 3.105 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

SECTION 3.2: GENERAL TERMINOLOGY

The words "city" and "municipality" shall mean the City of Gering, Nebraska. The work "city council" shall mean the City Council of Gering, Nebraska. The words "planning commission" shall mean the Planning Commission duly appointed by the municipality. The words "board of zoning adjustment" and "board" shall mean the board of zoning adjustment duly constituted in accordance with these regulations.

SECTION 3.3: DEFINITIONS

- 3.301 TEXT OF DEFINITIONS: Words or terms not herein defined shall have their ordinary meaning in relation to the context.

For the purposes of this Ordinance certain words and terms used herein are defined as follows:

- (1) Accessory Use or Building: A subordinate building or use which is located on the same lot and customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include but are not limited to, tennis courts, swimming pools, detached garages, air conditioners, garden houses, children's play houses, barbecue ovens, fire places, patios and residential storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

- (2) Agriculture: The planting, cultivating, harvesting and storage of grains, hay or plants, commonly grown in the vicinity. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area on which the livestock or poultry is kept is ten acres or more in the area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.
- (3) Airport: Any area which is used or is intended to be used for the taking off and landing of aircraft included helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways and tie-down areas.
- (4) Alley: A dedicated public right-of-way, other than a street, which provides only a secondary means of access to the abutting property, with the right-of-way not exceeding twenty feet (20') in width.
- (5) Alteration: Alteration, as applied to a building or structure, is a change or rearrangement in the structure 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 as an alteration.
- (6) Animal Hospital or Clinic: An establishment where animals are admitted principally for examination, treatment, board or care, by a Doctor of Veterinary Medicine. (This does not include open kennels or runs.)
- (7) Apartment: A room or suite of rooms within a multiple dwelling, arranged, intended or designed for a plat of residence of a single family or a group of individuals living together as a single housekeeping unit.
- (8) Apartment House: See Dwelling, Multiple.
- (9) Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:
- a. Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
  - b. Tire servicing and repair, but not recapping or regrooving;
  - c. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
  - d. Radiator cleaning and flushing;
  - e. Washing and polishing, and sale of automotive washing and polishing materials;
  - f. Greasing and lubrication;
  - g. Providing and repairing fuel pumps, oil pumps, and lines;
  - h. Minor servicing and repair of carburetors;
  - i. Emergency wiring repairs;
  - j. Adjusting and repairing brakes;

- k. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- l. Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for automobile service station customers;
- m. Provision of road maps and other information material to customers; provision of restroom facilities.

Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automobile service stations. An automobile service station is not a repair garage nor a body shop.

- (10) Automobile Wrecking Yard: Any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- (11) Basement: A story having not more than one-half (1/2) of its height below grade. A basement is counted as a story for height regulations if subdivided and used for a separate dwelling unit.
- (12) Block: Is an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake, and which has been designated as such on a plat for description purposes.
- (13) Block Front: All of the property on one side of a street between two intersecting streets.
- (14) Boarding or Lodging House: A building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons. Individual cooking facilities are not provided.
- (15) Buildable Area: The portion of a lot remaining after required yards have been provided.
- (16) Building: The word building includes the word structure and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot which the same is situated.
- (17) Building – Height of: The vertical distance from the average elevation of the finished ground at the front of the structure to the highest point of the structural part of the building.
- (18) Building Setback Line (Front): A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the lot line. (Also see “Yard, Front” definition) (Ord. 1744, 10/03)

- (19) Campground: 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 enclosure used or intended for use or intended wholly or in part for the accommodation of transient campers.
- (20) Camping Unit: Any vehicle, tent, trailer, or other moveable shelter used for camping purposes.
- (21) Cemetery: Land used or intended to be used for the burial of the dead and dedicated for such purposes, including crematoriums and mausoleums.
- (22) City: Shall mean the City of Gering.
- (23) Clinic: (See Medical, Dental or Health Clinic.)
- (24) Collector Street: (See Street Network, Collector.)
- (25) Common Open Space: An area of land or water or combination thereof planned for passive or active recreation, but does not include area utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open spaces.
- (26) 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 Control for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.
- (27) Common Water System: A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis and which is in public ownership.
- (28) Comprehensive Plan: Is the plan or series of plans for the future development of the City recommended by the Planning Commission and adopted by the City Council.
- (29) Conditional Use Permit: A conditional use permit is a written permit issued by the Zoning Administrator with the written authorization of the City Council after presentation to and recommendation by the Planning Commission. This conditional use permit provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the district zoning regulations. (See Exceptions.)
- (30) Cul-De-Sac: Is a street having one end open to traffic and being terminated by a vehicular turnaround.

- (31) Day Nursery: An establishment other than a public or parochial school, which provides day care and education for four (4) or less unrelated children. (See Group Day Care Center.)
- (32) District: A section or sections of the zoning area for which these regulations governing the use of land, the height of buildings, the size of yards and the intensity of use are uniform.
- (33) Drive-In Restaurant: Any place where food, beverages or related items may be purchased for consumption, either on the premises or at other places. Drive-up windows, for the purchase of sale items to be consumed off the premises, are permitted within this definition.
- (34) Dwelling: Any building or portion thereof which is designed for and used exclusively for residential purposes.
- (35) Dwelling, Single-Family: A detached building containing not more than one (1) dwelling unit designed for residential use of one (1) family only and meeting the following standards: (Ord. 1708, 4/02)
- a. If the dwelling is a mobile home or manufactured (modular) home, it bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development;
  - b. The dwelling is permanently attached to a foundation system constructed on the site in accordance with the City building code. Said foundation shall have a wall of the same perimeter dimensions as the dwelling and shall be constructed of such materials and type as required in the applicable building code for site-built, single-family dwellings in the applicable residential zoning district;
  - c. The dwelling shall have no less than nine hundred (900) square feet of floor area;
  - d. The dwelling has a minimum width across front, side, and rear elevations of eighteen (18) feet;
  - e. The roof of the dwelling shall be pitched with a minimum vertical rise of two and one-half (2½) inches for each twelve (12) inches of horizontal run;
  - f. The dwelling shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
  - g. The exterior material of the dwelling shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction; and
  - h. If the dwelling is a mobile home or manufactured (modular) home; the wheels, axles, transporting lights, and removable towing apparatus shall be removed.

These standards do not apply to mobile homes located in the SMH – Mobile Home District.

- (36) Dwelling, Two-Family: A building designed for, and independently occupied by two (2) families exclusively.

- (37) Dwelling, Multiple: A residential building designed for, and independently occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.
- (38) Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.
- (39) Easement: A grant by the property owner to the public, a corporation, or persons of the use of a tract of land for a specific purpose of purposes.
- (40) Efficiency Unit: A dwelling unit having only one room exclusive of bathroom, water closet compartment, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted only in a multi-family dwelling.
- (41) Elderly Housing: Many State agencies provide a degree of preference for projects for the elderly. It is useful to understand the treatment of “housing for older persons” under the federal Fair Housing Act. The Fair Housing Act prohibits discrimination against families with children. However, it exempts from this prohibition certain types of elderly housing. The exemption applies to so called “62 or over housing” and “55 or over housing”, each of which must meet particular standards. The former requires that all units in a project be restricted to tenants who are at least 62 years of age. The latter requires that at least 80 percent of the units in a project have at least one resident who is at least 55 years of age and that the project have “policies and procedures” which make clear that it is housing for older persons. There appears to be nothing in the federal statute or HUD Regulations that would prevent State Agencies from predicating a preference for seniors housing on either standard or from imposing more stringent requirements on such a preference. (Ord 1846, 4/07)
- (42) Exception: An exception is a use that would not be appropriate generally or without restriction through the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as exceptions, if specific provision for such exceptions is made in this Ordinance. (See Conditional Use Permit.)
- (43) Family: One or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit; plus in either case, usual domestic servants. A family shall under no circumstances be construed as a boarding house, Fraternity, or sorority house, club, lodging house, hotel or motel.
- (44) Farmstead: An area of twenty (20) acres or more, on which is located at least one farm residence, and which is used for raising agricultural crops, livestock, poultry, or dairy products of a value of one thousand dollars (\$1,000) or more is normally produced each year.

- (45) Feedlot: 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 purposes of this definition, feedlots shall be classified according to the registered capacity. The registered capacity of such feedlots shall be as follows:

- First Class Feedlot - 5,000 or more animal units
- Second Class Feedlot - 501 to 4,999 animal units
- Third Class Feedlot - 50 to 500 animal units

One animal unit shall be equivalent to: one (1) head of feeder, fat, beef, or dairy cattle; one (1) horse or pony; two (2) head of swine; two (2) dogs; ten (10) head of sheep; forty (40) turkeys, geese, chickens, or ducks; or an equivalent number of other animals as determined by the Board of Zoning Adjustment.

- (46) Fence: Fence shall mean any structure constructed of wood, masonry, metal, or other material, permanently attached to the ground by posts, or set on a masonry foundation, for the purpose of enclosing or boarding a piece of land. A solid fence is one that consists of open spaces of less than one-half ( $\frac{1}{2}$ ) of the fence area.
- (47) Floodway - Commission: A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission.
- (48) Floodway - Selected: A floodway within the limits of a Commission Floodway which is recognized by the Nebraska Natural Resources Commission as being subject to a high degree of flood hazard.
- (49) Floor Area:
- a. For computing off-street parking requirements: Shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following areas:
    - 1. One-half ( $\frac{1}{2}$ ) the basement floor area.
    - 2. The area of each floor of the structure.
  - b. Floor area determining floor area ratio: As used herein shall be computed as the sum of the following areas:
    - 1. The gross horizontal areas of the several buildings measured from the exterior faces of exterior walls or from the centering of walls separating two buildings which shall include floor area utilized for stairwells or elevator shafts and floor spaced used for mechanical equipment (except equipment open or enclosed, located on the roof).
    - 2. Penthouses.
    - 3. One-half ( $\frac{1}{2}$ ) the basement floor area.
    - 4. Interior balconies.
    - 5. Enclosed porches.

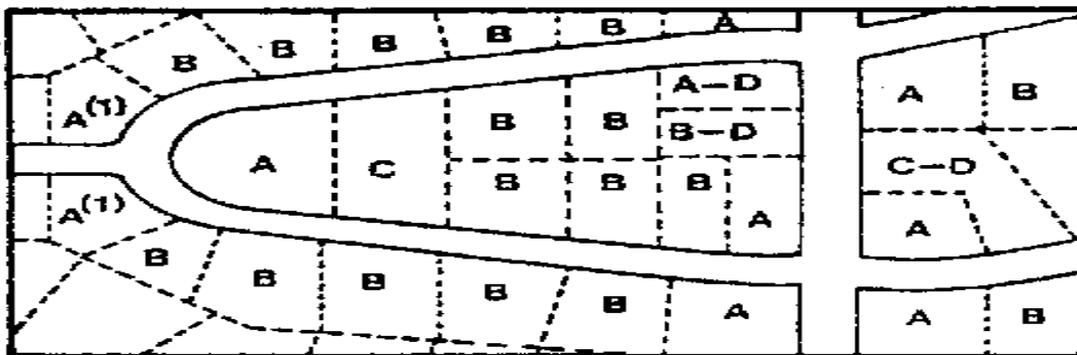
- 6. Floor area devoted to accessory uses.
  - 7. Interior walls.
- c. Floor Area Ratio: The maximum percentage of allowable floor of a building or complex (including both principal and accessory buildings) computed by dividing the floor area of said complex or buildings by the area of the building site.
- (50) Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street.
- (51) Garage, Private: An accessory building or portion of a main building used for the storage only of motor vehicles owned and used for occupants of the building to which it is an accessory.
- (52) Garage, Public: A building or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.
- (53) Governing Body: The Mayor and Council of the City of Gering, Nebraska.
- (54) Grade:
- a. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be the grade.
  - b. For buildings having walls facing more than one street, the grades shall be the average of the grades (as defined in a above) of all walls facing each street.
  - c. For buildings having no wall facing a street, the average level of the finished surface of the ground adjacent to the exterior wall or the building shall be the grade.

Any wall approximately parallel to and not more than five feet (5') from a street line is to be considered as facing the street.

- (55) Group Day Care Center: An establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for five (5) or more unrelated children and shall include the term nursery school. Group Day Care Centers shall meet all requirements of the State of Nebraska. (See Day Nursery.)
- (56) Home Occupation: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services. (Ord. 1614, 10/98)
- (57) Hotel: A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and where such establishments are designated as a hotel, inn, automobile court, motel, motor lodge, motor court, tourist cabin, tourist court or other similar designation.

- (58) Institution: A building occupied by a non-profit corporation or non-profit establishment for public use.

- (59) Junkyard: Any area where waste, discarded or salvaged, are bought, sold, exchanged, bailed or packed, disassembled or handled, including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards or storage of salvaged house-wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
- (60) Kennel-Boarding: Any place, area, building or structure where dogs (including those under 1 year of age) are boarded, housed, cared for, fed or trained by other than the owner.
- (61) Kennel-Breeder: Any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee.
- (62) Loading Space, Off-Street: Space logically and conveniently located for bulk pickups and deliveries, scaled to deliver vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
- (63) Local Street:(See Street Network, Local.)
- (64) Lot: For purpose of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning and subdivision requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on any improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, or of portions of lots of record; a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
- (65) Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this article.



**LOT DEFINITIONS**

- (66) Lot of Record: Shall mean a lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of the County.

- (67) Lot Width: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points where they intersect with the street line, shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, or on loop streets, where the eighty (80) percent requirement shall not apply.
- (68) Lot, Corner: Indicated as "A" in the above diagram, a corner lot is defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall also be considered a corner lot. See lots marked A<sup>1</sup> in the above diagram.
- (69) Lot Depth: The distance between the midpoint of the front lot line and the midpoint of the rear lot line.
- (70) Lot, Interior: Indicated as "B" in the diagram, an interior lot as defined as a lot other than a corner lot with only one frontage on a street.
- (71) Lot, Through: Indicated as "C" in the diagram, a through lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as a double frontage lot.
- (72) Lot, Reversed Frontage: A lot on which the frontage is at right angles or approximately right angles to the general pattern in the area. A reversed frontage lot may be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).
- (73) Major Recreation Equipment: Major equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not, and shall include the term Recreational Vehicle.
- (74) Medical, Dental or Health Clinic: Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists and in which no patients are lodged overnight, but which may include apothecary.
- (75) Mobile Home: Any transportable dwelling unit designed and constructed on a chassis that is capable of being transported after fabrication on its own wheels, or detachable chassis and wheels. This shall include double-wide mobile homes.
- a. Permanently Attached: Attached to real estate owned by the title holder of the mobile home in such a way as to require dismantling, cutting away, unbolting from foundation or structural change in such mobile home in order to relocate it on another site.

b. **Modular Home:** (Does not include double-wide mobile homes): Any prefabricated structure of conventional construction used for dwelling purposes moved on to a site in essentially complete constructed condition, in one or more parts and when completed is a single-family unit on a permanent foundation, attached to the foundation with permanent connection. MODULAR HOMES shall be considered single-family dwellings for purposes of this Ordinance.

- (76) **Mobile Home Park:** Any area of land upon which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirting or combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons for living, or sleeping purposes and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park; and shall include any buildings, structures, vehicles, or enclosures used or intended for use or intended wholly or in part of the accommodation or automobile transients.
- (77) **Nonconforming Structure:** A structure which does not comply with the lot size requirement of bulk regulations applicable to new structures in the zoning district in which it is located.
- (78) **Nonconforming Use:** An existing use of a structure or land which does not conform with the regulations of the district in which it is situated as established by this regulation or any amendments thereto.
- (79) **Nursing Homes or Convalescent Homes:** 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 narcotic addiction.
- (80) **Parkways:** Those streets which are similar to an arterial, but with a large median for landscaping and somewhat slower traffic flow.
- (81) **Parking Space, Off-Street:** For the purposes of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of approximate computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the City.

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- (82) **Pedestrian Ways:** A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets or properties.

- (83) Planning Commission: The Gering Planning Commission.
- (84) Permanent Foundation: The masonry or concrete substructure of a structure which directly supports the structure around its entire perimeter and at points within its perimeter where needed.
- (85) Planned Development: Special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in this Ordinance and as approved by the City Council.
- (86) Professional Office: Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.
- (87) Public Utility: Any business which furnishes the general public; (a) telephone services; (b) telegraph service; (c) electricity; (d) natural gas; (e) water and sewer, and (f) any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State.
- (88) Salvage Yard: Any lot, or the use of any portion of a lot, for the dismantling of machinery, farm machinery, and including motor vehicles or for the storage or keeping for sale of parts of and equipment resulting from such dismantling or wrecking, or for the storage or keeping of junk including scrap metals or other scrap material, with no burning permitted.
- (89) Sanitary Landfill: A type of operation in which garbage and refuse or garbage is deposited by a plan on a specified portion of land, is compacted by force applied by mechanical equipment, and then is covered by compact suitable covering material to a depth of at least six to twelve inches over individual cells or garbage and refuse or garbage or refuse, which are closed at the end of each day, and to a depth of at least twenty-four inches over the furnished landfill.
- (90) Screening: Decorative fencing or vegetation maintained for the purpose of concealing from view the area behind such fencing or vegetation.
- (91) Service Station: (See Automobile Service Station.)
- (92) Setback: Setback shall mean the minimum horizontal distance between the front lot and the front wall of a building or any projection thereof, excluding steps.
- (93) Sign: Any structure or part thereof or device attached thereto or painted, or represented thereon, 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 an announcement, direction, or advertisement.

- a. Off-Site Sign: A sign which directs attention to a business, profession, activity, commodity, service or entertainment other than one sold, conducted, or offered upon the site or premises where such sign is located. Also referred to as an off-premise sign. (Ord. 1731, 07/03)
  - b. On-Site Sign: A sign which directs attention to a business, profession, activity, commodity, service, entertainment, or attraction sold, conducted or offered on the same site where such sign is located. Also referred to as an on-premise sign. (Ord. 1731, 07/03)
- (94) Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it or if there is no floor above it, the space between the floor and the ceiling next above it.
- (95) Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than sixty percent (60%) of the floor area is finished off for use.
- (96) Street: The street right-of-way or easement, whether public or private (not limited to the area of the paving or other improvements on the street right-of-way unless such paving or improvements coincide with the boundaries of such right-of-way).
- (97) Street Centerline: Shall mean a line midway between the street lines.
- (98) Street Line: The right-of-way line of a street. A dividing line between a lot, tract or parcel of land and the contiguous street.
- (99) Street Network:
- a. Arterial: A street which provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exits and curb use.
  - b. Collector: A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
  - c. Local: A street which provides direct access to abutting land and local traffic movement whether in business, industrial or residential land.
- (100) Structure: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground; including, but not including fences or public items such as utility poles, street light fixtures and street signs.
- (101) Structural Alteration: Any changes in the structural members of a building, such as bearing walls, columns, beams, roof or girders; or any complete rebuilding of the roof or the exterior walls.

For the purpose of this regulation, the following shall not be considered as structural alterations:

- a. Attachment of a new front where structural supports are not changed.
- b. Addition of fire escapes where structural supports are not changed.
- c. New windows where lintels and support walls are not materially changed.
- d. Repair or replacement of non-structural members.

(102) Tavern: An establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises.

(102.a.) Transitional Housing Facility: A housing unit for facility which has, as residents, more than one person, supervised or unsupervised, who have been convicted of a crime and have served a sentence in a correctional facility, and are residing at the facility for the purpose of making a transition from confined living to community living. A Transitional Housing Facility may not house more than six (6) individuals. (Ord. 1582, 4/97)

(103) Variance: Relief from or variation of the provisions of this ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter in the powers and duties of the Board of Adjustment.

As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in adjoining zoning district or because of conditions created by the landowner.

(104) Yard: An open space on the same lot with a building unobstructed from the ground upward and measured at the minimum horizontal distance between the lot line and the main building.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one (1) of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth (primary front yard) shall be provided in accordance with the prevailing yard pattern and a second front yard (secondary front yard) of one-half the depth required generally for front yards in the district shall be provided on the other frontage, unless otherwise provided in the district regulations. (Ord. 1744, 10/03)

(105) Yard, Front: A yard extending from the front lot line adjoining a public street to the front vertical building line, not including the projection of usual steps, unenclosed porches or eave. (Ord. 1758, 05/04).

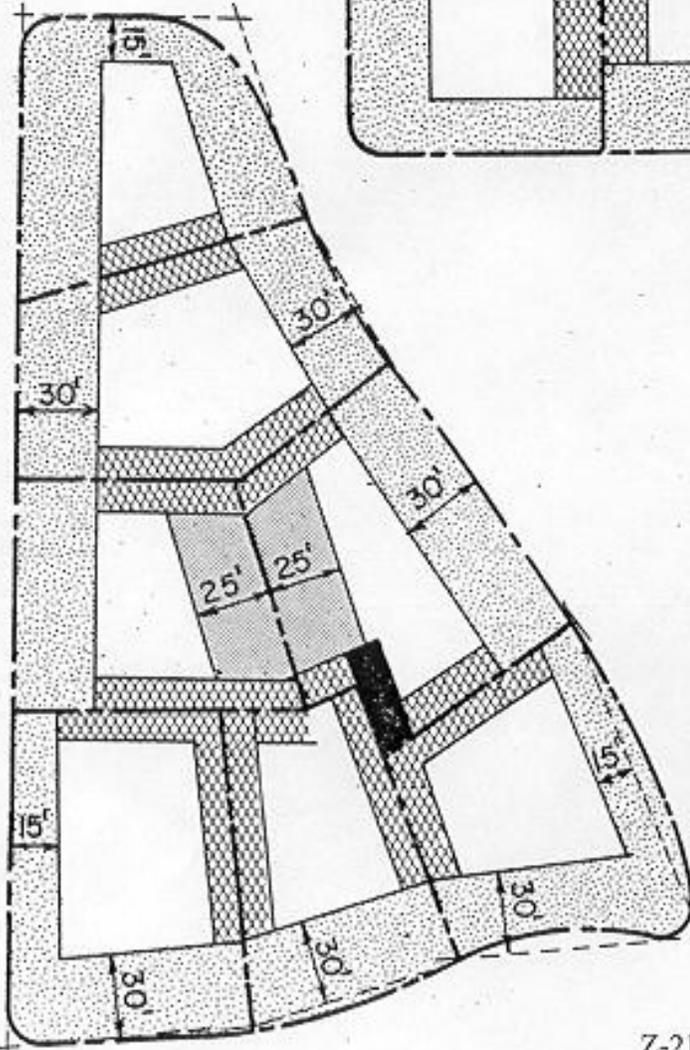
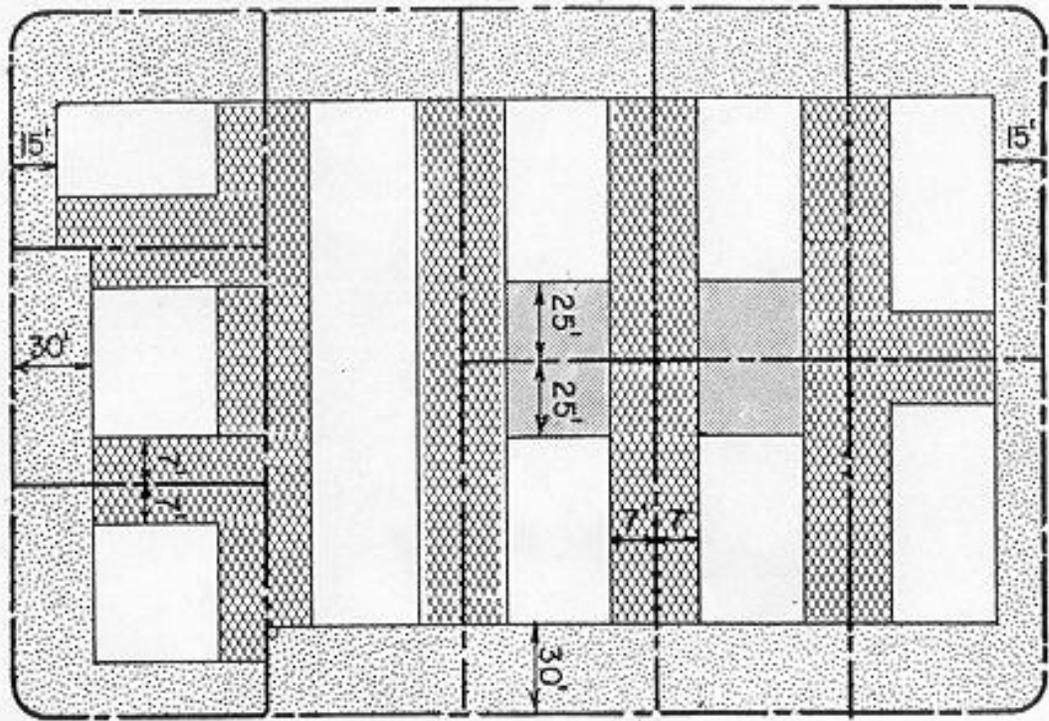
In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet.

In the case of corner lots with more than two (2) frontages, the administrative official shall determine the front yard requirements, subject to the following limitations: (1) at least one front yard (primary front yard) shall be provided having the full depth required generally in the district; and (2) no other front yard (secondary front yard) on such lot shall have less than one-half the full depth required generally. On plats approved after October 1, 2003, corner lots in residential zones shall be developed in accordance with the primary and secondary front yards established in the plat. (Ord. 1744, 10/03)

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. The front lot line and the inner edge of the front yard shall be parallel. (Ord. 1758, 05/04).

- (106) Yard, Rear: A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear vertical building line, not including the projection of usual steps, unenclosed porches, entrance ways or eave. On all lots, except corner lots, the rear yard shall be at the opposite end of the lot from the front yard, except that on corner lots only one yard shall be designated as a rear yard. (Ord. 1758, 05/04).
- (107) Yard, Side: A yard extending from the front lot line to the rear lot line and measured from the side lot line and the main building eave line, roof projection. (Ord. 1758, 05/04).
- (108) Yard, Special: A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or orientated that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.
- (109) Zone, or District: A section of the Zoning Area for which uniform regulations governing the use, height, area, size and intensity of the use of buildings, land and open spaces about buildings are herein established.
- (110) Zoning Administrator: The person authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these zoning regulations.
- (111) Zoning Area: The area to be zoned as set out on the Official Zoning Map filed on record.
- (112) Zoning Regulations: The term zoning regulations of this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

LOCATION AND MEASUREMENTS OF YARDS ON LOTS



LEGEND:

Yards:

- Front
- Side
- Rear
- Special



Lot Lines: - - - - -

Yard Measurement Lines: \_\_\_\_\_

The illustration here assumes front yard depths required at 30 feet (half-depth front yards 15 feet), side yard widths 7 feet and rear yard depths 25 feet. Note that at A, a special yard is shown indicating treatment where usual side or rear yard terminology would be difficult to apply, but purpose of the yard is clear.



ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF DISTRICTS

SECTION 4.1: DISTRICTS CREATED

For purposes of this Ordinance, the City of Gering and all area within two miles thereof is hereby divided into zoning districts to be known as follows:

AGG	General Agricultural District
RRE	Rural Residential Estate District
RL	Residential Low Density District
RM	Residential Medium Density District
RML	Multi-Family Residential Low Density District
RMH	Multi-Family Residential High Density District
BNC/C-1	Neighborhood Commercial District
BCB/C-2	Central Business District
BHC/C-3	Highway Commercial District
BTS/C-4	Traveler Services
BEC/C-5	Employment Center
ML	Light Industrial and Manufacturing District
MH	Heavy Industrial and Manufacturing District
GCE	Golf Course Estates District

SECTION 4.2: DISTRICT ZONING MAP

The boundaries of these districts are shown on the "Zoning District Map" which is made part of this Ordinance, said map and all information shown thereon shall have the same force and effect as if fully set forth or described herein.

The official Zoning District Map shall be identified by the signature of the Mayor, attested by the City Clerk under the following statement:

"This is to certify that this is the Official Zoning District Map referred to in Section 4.2 of Ordinance No. \_\_\_ of the City of Gering, Nebraska, passed this \_\_ day of \_\_\_\_\_, 20\_\_."

SECTION 4.3: ZONING MAP CHANGES

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 (date), by official action of the City Council the following change was made in the Official Zoning Map: (brief description of nature of change), which entry shall be signed by the Mayor 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 said map."

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance.

Regardless of the existence or purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map which shall be located in the office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

#### SECTION 4.4: ZONING MAP REPLACEMENT

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof.

Each of the new Official Zoning Map(s) shall be identified by the signature of the Chairman or the Mayor attested by the City Clerk and bearing the seal of the City under the following words:

“This is to certify that this Official Zoning Map supersedes and replaced the Official Zoning Map adopted (date) as part of Ordinance No.     of the City of Gering, Nebraska.”

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

#### SECTION 4.5: RULES AND INTERPRETATION OF DISTRICT BOUNDARIES

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

1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.

6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by Subsections 1 through 6 above, the City Board of Zoning Adjustment shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the City Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

#### SECTION 4.6: ANNEXATION RULE

All territory which may hereafter be regulated by this Ordinance because of annexation of the City of Gering shall be considered to be in the AGG General Agricultural District until otherwise classified by amendment in accordance with the provisions of this Ordinance.

## ARTICLE 5.: AG AGRICULTURAL DISTRICT

The purpose and objective of the Agricultural District is to preserve land best suited for agriculture from the encroachment of incompatible uses, to prevent the intrusion of urban development into agricultural areas which would make agricultural production uneconomical or impractical, to preserve in agricultural use land suited to eventual development in other uses until such time as streets, utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use; to provide appropriate locations for certain types of establishments primarily serving agricultural procedures; to permit the application or regulations to major agricultural areas of the city and surrounding area which will reflect basic physical differences and attractions among such areas.

### SECTION 5.1: AGG GENERAL AGRICULTURAL DISTRICT

5.101 INTENT: This district is intended primarily for application to those rural areas of the County where it is necessary and desirable to reserve for exclusive agricultural use appropriately located areas suitable for the raising of crops of livestock because of high quality of soils, scenic characteristics, existing or potential irrigation or exclusive agricultural character of the area.

5.102 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Any form of agriculture including the raising of crops, horticultural uses, animal husbandry, poultry husbandry, fisheries but excluding commercial auction yards and barns;
- (2) Third Class Feedlots: As defined in ARTICLE 3 (44), subject to the Department of Environmental Control's Rules and Regulations pertaining to livestock waste control, as amended;
- (3) Bulk grain storage both publicly or privately owned or managed except for commercial use;
- (4) Irrigation and flood control projects;
- (5) Signs subject to SECTION 10.15 of this Resolution.

5.103 PERMITTED ACCESSORY USES AND STRUCTURES: The necessary accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures which are primarily adapted by reason of nature and are, for use of agricultural or agricultural service related purposes while so used;
- (2) Home occupations;
- (3) Residences including mobile home for farm residence or adjacent to farm residence for relatives of consanguinity and marriage or farm workers.

- 5.104           EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit the following conditional uses as exceptions in the AGG General Agriculture District in accordance with ARTICLE 13 of this Ordinance.
- (1)           Roadside stands for the sale of agricultural produce grown on the site.
  - (2)           Airports and heliports, including crop dusting strips.
  - (3)           Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis including corn shelling, hay bailing and thrashing services; contract sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing or storage; horticultural services such as plant nurseries, landscape gardening, landscape contracting; establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, land leveling, harvesting and plowing; farm equipment service and repair; veterinary services; boarding and training of horses; commercial hunting and trapping and the operation of game reservations.
  - (4)           Public utility and public service structures including electric transmission lines and the distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and reservoirs.
  - (5)           Public and quasi-public uses of an educational or religious type including public and parochial elementary schools, junior high schools, high schools and colleges.
  - (6)           Community facilities and institutions including monasteries, convents and other religious institutions, public and private philanthropic and charitable institutions.
  - (7)           Publicly owned open recreational facilities, operated for profit or otherwise, including golf courses, golf driving ranges, archery ranges, swimming pools, riding academies, parks, community centers, but not including enclosed uses such as a bowling alley.
  - (8)           Police and fire stations.
  - (9)           Sewage treatment plants.
  - (10)          Wells, water treatment plants and related facilities.
  - (11)          Gas and oil wells.
  - (12)          Rock, sand and gravel extraction and processing sites.
  - (13)          Irrigation wells, water retention pits, windbreaks, and silage bunkers.
  - (14)          Agricultural museums and cultural facilities owned and operated by non-profit corporations. (Ord. 1576, 10/96)

- (15) Transitional Housing Facility (Ord. 1582, 4/97)
- (16) Communication Towers (not to exceed 150 feet in height) (Ord. 1609, 3/98)
- (17) Communication Towers exceeding 150 feet in height, subject to the following conditions (Ord. 1706, 4/02):
- a. The tower, guy wires, anchors, and accessory facilities shall comply with the minimum setbacks of the zoning district. The tower shall be setback so as to contain all ice-fall or debris from tower failure to the tower site.
  - b. The tower shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration. In any case where a tower is determined to need obstruction marking or lighting, the applicant must request the least visually obtrusive marking or lighting scheme in Federal Aviation Administration applications.
  - c. No commercial signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal or state regulation.
  - d. The tower, antennas, and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Administration have dictated color. A tower structure offering a slender silhouette (i.e. monopole or guyed tower) shall be preferable to free-standing structures (i.e. lattice tower).
  - e. The tower, antennas, and any necessary support structures shall be designed to avoid having an undue adverse aesthetic impact on scenic resources. In determining whether a tower's aesthetic impact would be undue and adverse, the following should be considered by the City Planning Commission and/or City Council:
    1. the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
    2. the frequency of the view experienced by the traveling public;
    3. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
    4. background features in the line of sight to the proposed tower that obscure the tower or make it more conspicuous;
    5. the distance of the proposed tower from the view points and the proportion of the tower that is visible above the skyline;
    6. the sensitivity or unique value of a particular view affected by the proposed tower;
    7. significant disruption of a viewshed that provides context to a historic or scenic resource.

The City Council shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the City Planning Commission and/or City Council may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic

impacts. The applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably meets the applicant's communication needs.

5.105           **CONDITIONS FOR GRANTING EXCEPTIONS:** Notwithstanding the requirements of ARTICLE 13 of this Resolution, the following regulations shall apply as minimum requirements for granting exceptions in the AGG General Agricultural District.

- (1) Airport sites shall be so situated that the airports hazard area defined by the Nebraska Department of Aeronautics shall not include any existing obstruction regardless of public or private ownership of the airport;
- (2) Any use involving a business, service, or process not completely enclosed in a structure, when located on a site abutting on or across a street or an alley from any Residential District shall be screened by a solid fence or masonry wall or a compact growth of natural plant materials not less than six (6) feet in height if the Board finds said use to be unsightly;
- (3) No irrigation wells, water retention pits, or re-use pits, or silage bunkers shall be located within thirty (30) feet from any public right-of-way, except that at township, county, state, or federal road intersections, such wells, pits, or bunkers must be located no closer than seventy (70) feet from the nearest intersection of public right-of-way.
- (4) No windbreakers consisting of planted trees and/or shrubs shall be located within thirty (30) feet from any public right-of-way, except that a township, county, state, or federal road intersections, such windbreaks must be located no closer than seventy (70) feet from the nearest intersection of public right-of-way.

5.106           **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the AGG General Agricultural District.

- (1) The minimum lot area for residences shall be twenty-five (25) acres;
- (2) The minimum lot area for uses prescribed as conditional uses shall be twenty-five (25) acres subject to approval of the Board;
- (3) The minimum lot width at the front building line shall be three hundred (300) feet.

5.108           **MINIMUM YARD REQUIREMENTS:**

- (1) Front yard: There shall be a minimum front yard of not less than a depth of one hundred fifty (150) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or one hundred (100) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of one hundred (100) feet from the center line of the street or highway or seventy-five (75) feet from the property line, whichever is greater; and further, these yard requirements shall apply to any yard abutting a public street or highway regardless of the lot being an interior or corner lot;

- (2) Rear yard: There shall be a minimum yard of not less than a depth of fifty (50) feet;
- (3) Side yard: Side yards shall not be less than fifteen (15) feet;
- (4) Distance between structures: The minimum distance between principal structures used for human habitation shall be ninety (90) feet. The minimum distance between a dwelling and another structure shall be ten (10) feet or, in the event that the adjacent exterior walls shall be non-combustible fire-resistant rated walls as provided for by the Building Codes and Fire Codes of the City of Gering, then a minimum of five (5) feet shall separate such structures. (Ord. 1360, 10/86)

5.109 MINIMUM DISTANCE REQUIREMENTS:

- (1) No third class feedlot shall be located within one-half (1/2) mile of an existing residential structure other than that of the owner, operation or employee of the feedlot, or shall a residential structure other than that of the owner, operator, or employee be located within one-half (1/2) mile of an existing third class feedlot.

5.110 MAXIMUM LOT COVERAGE: No limitations.

5.111 MAXIMUM HEIGHT: No limitations.

5.112 SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

SECTION 5.2: AEDS AGRICULTURAL ESTATE DWELLING SITE. (Ord. 1346, 5/86)

5.201 INTENT: The intent of this subsection is not to encourage the creation of a large number of agricultural estate dwelling sites (AEDS), but such intent is to allow "subdivision" or sale, of a portion of a larger tract of land, whereby the smaller parcel created is to be used primarily for dwelling site purposes, upon the following more specific requirements.

5.202 CONDITIONS FOR CREATION OF AEDS: The AEDS must consist of one or more of the following:

- (1) An existing farmstead site (an existing vacant home, and accessory units of buildings, on farm-ranch land).
- (2) A parcel which would allow a conveyance, which conveyance intends a transfer to a farm-ranch owner's relative (children, grandchildren, parents, brothers, sisters, uncles, aunts, nephews, nieces), to be used for dwelling purposes.
- (3) A parcel which would allow a conveyance, which conveyance intends a transfer from a farm-ranch owner, to such owner, to be used for dwelling purposes (such owner must own a controlling interest in the AEDS, and reserved tract; the

interest owned between husband and wife may collectively represent such controlling interest).

- (4) A parcel of marginal usage land (marginal usage, defined as: "land with little, or relatively little, agricultural productivity capability").

5.203           RESERVATION OF BALANCE OF LAND: For each AEDS, the owner shall reserve the balance of 80 acres of vacant or agricultural district land (such 80 acres, may, however, have dwellings permitted by 5.103 (3) above). This reservation shall be required (reserved), for as long as the reserved land is zoned AGG General Agricultural District. The City Planning Commission and the City Council of the City of Gering, Nebraska, may permit the creation of an AEDS out of less than 80 acres of reserved land, in certain situations, in the event that the intent of this subsection is maintained. Each 80 acre tract (or less), shall serve the reservation requirements of only one AEDS.

5.204           MINIMUM LOT REQUIREMENTS:

- (1) Each AEDS with frontage on an existing dedicated public road, shall have a minimum width of 150 feet (as a front lot width). In the event such AEDS is of an interior-section type, it shall have a dedicated access road, at least 25 feet in width, to a dedicated public road. Access road(s) serving an AEDS, shall be separated by a distance of no less than 1,000 feet from another access road, along a dedicated public road.
- (2) Each AEDS shall be minimum of 1 acre, and a maximum of 25 acres.
- (3) The provisions of minimum yard requirements, minimum distance requirements and sign regulations as provided for in 5.108, 5.109, and 5.122 shall be applicable to an AEDS.

5.205           PROCEDURE FOR OBTAINING APPROVAL FOR AEDS:

- (1) Each AEDS shall be shaped and located so as to allow accurate plotting on the official zoning map of the City of Gering, Nebraska (i.e. abutting on lines identifiable as a segment of a section, such as a section line or a 1/4 section line, or upon other readily identifiable features). Additionally, each AEDS, shall be subject to the provisions for plat review and submittal requirements as provided for in Article 21 of the Subdivisions Regulations of the City of Gering, Nebraska.
- (2) In reviewing an application for an AEDS, the Planning Commission and the City Council of the City of Gering, Nebraska, shall take into consideration the effect of such an AEDS upon: utilities, roads, drainage, terrain, usage, zoning, future subdividing, and so forth. If approved, the AEDS parcel, along with the reserved tract, shall be noted by the Zoning Administration, for future reference.

- (3) The procedure to obtain an AEDS shall be: an application for the same shall be presented by the owner(s) to the Zoning Administrator of the City of Gering, Nebraska, pursuant to Article 21 of the Subdivision Regulations of the City of Gering, Nebraska, and if approved by the Planning Commission and the City Council of the City of Gering, Nebraska, a certificate shall be prepared, identifying the AEDS, which certificate shall be filed on the real estate records of the County of Scotts Bluff, Nebraska.
- (4) In the event that after approval, an AEDS is no longer actually used for a purpose in existence at the time such approval was given, because of which purpose, such approval was given, then the approval granted by the City Council of the City of Gering, Nebraska, shall be automatically revoked.

## ARTICLE 6.: R RESIDENTIAL DISTRICTS

The purposes and objectives of the Residential Districts are to preserve and protect areas in the City which by their location, proximity to other land uses, and the character of the natural environment, and accessibility to public services and facilities exhibit a high potential as living areas for the people. The regulations are intended to preserve the quality and character of existing residential neighborhoods, as well as encourage continuing maintenance and rehabilitation by ensuring the incompatible uses of the land will not encroach upon the residential areas.

### SECTION 6.1: RRE RURAL RESIDENTIAL ESTATE DISTRICT

- 6.101            **INTENT:** The district is intended primarily for application to subdivision of land in agricultural and scenic areas to: (a) permit the opportunity of developing estate-type lots which, because of their size, cannot be economically accommodated within urban areas; and (b) to encourage the provision of estate-type lots as a subdivision of land which will assure the provisions of at least those minimum physical improvements necessary to protect the health, safety and general welfare of people living on estate-type lots or parcels.
- 6.102            **PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right.
- (1)            Single-family dwellings;
  - (2)            Raising of fruit and nut trees, vegetables and horticultural specialties;
  - (3)            Breeding, hatching, raising and fattening birds, rabbits, chinchillas, hamsters, or other small animals and fowl on a domestic, noncommercial scale, provided that no structure housing poultry or small animals shall be closer than fifty (50) feet to any property line, or closer than twenty-five (25) feet to any dwelling on the site.
  - (4)            The raising or keeping of horses, provided that not more than two (2) animals and their immature offspring for each acre shall be permitted, and provided that no stable shall be located closer than fifty (50) feet to any dwelling. (Ord. 1315, 12/84)
- 6.103            **PERMITTED ACCESSORY USES AND STRUCTURES:** Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures and to uses and structures permitted as exceptions shall be permitted.
- 6.104            **EXCEPTIONS:** After the provisions of this ordinance relating to exceptions have been fulfilled, the City Council may permit the following conditional uses as exceptions in the RRE Rural Residential Estate District in accordance with ARTICLE 13 of this Ordinance.
- (1)            Public and private playgrounds, parks, community centers and other recreational facilities for communal use on an exclusive noncommercial basis.

- (2) Home occupations.
- (3) Temporary subdivision sales offices and signs and model home display areas.
- (4) Electrical distribution substations, gas regulator stations, communications equipment buildings.
- (5) Public service pumping stations and/or elevated pressure tanks.
- (6) Signs subject to SECTION 10.15 of this Ordinance.

6.105            **CONDITIONS FOR GRANTING EXCEPTIONS:** The requirements of ARTICLE 13 of this Ordinance shall apply a minimum requirements for granting exceptions in the RRE Rural Residential Estate District.

6.106            **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the RRE Rural Residential Estate District.

6.107            **MINIMUM LOT REQUIREMENTS:**

- (1) The minimum lot area shall be thirty thousand (30,000) square feet.
- (2) Each lot shall have not less than eighty (80) feet of frontage, when a lot fronts on a cul-de-sac or loop street, where there are curbs and gutters and shall have not less than one hundred (100) feet of frontage where there are no curbs and gutters.
- (3) The minimum width of each lot shall be one hundred (100) feet.
- (4) Each lot shall have a depth of not less than one hundred fifty (150) feet.

6.108            **MINIMUM YARD REQUIREMENTS:**

- (1) **Front yard:** There shall be a minimum front yard of not less than a depth of one hundred (100) feet from the center line of Federal Aid-Primary or Federal Aid-Secondary designated street or highway or thirty-five (35) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of twenty-five (25) feet from the property line where there are curbs and gutters and thirty-five (35) feet from the property line where there are no curbs and gutters. These yard requirements shall apply to any yard abutting a Federal Aid-Primary of a Federal Aid-Secondary designated street or highway regardless of the lot being an interior or corner lot.
- (2) **Rear yard:** The minimum rear yard of a principal structure and its accessory structures shall be twenty-five (25) feet provided, however, that where construction involves more than one story, the rear yard shall be increased by fifteen (15) feet for each additional story.

(3) Side yards: The minimum side yards of a principal structure and its accessory structures shall be ten (10) feet provided that where construction involves more than one story, the side yard shall be increased by seven and one-half (7 ½) feet for each additional one-half story, or fifteen (15) feet for each additional story. (Ord. 1315, 12/84)

6.109 MAXIMUM LOT COVERAGE: The maximum lot coverage shall not exceed thirty percent (30%) of the total lot area.

6.110 MAXIMUM HEIGHT: The height of all structures shall not exceed thirty-five (35) feet subject to the provisions of SECTION 11.5 of this Ordinance.

6.111 SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

## SECTION 6.2: RL RESIDENTIAL LOW DENSITY DISTRICT

6.201 INTENT: This district is intended primarily to provide living areas within the City where development is limited to low density concentrations of one-family dwelling where regulations are designed to accomplish the following: To promote and encourage a suitable environment for family life; to provide space for community facilities needed to complete urban residential areas and for institutions which require a residential environment; to minimize traffic congestion and to avoid the overloading of a utilities and public facilities designed to service only one-family residential uses in accord with standards of the comprehensive plan.

6.202 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

(1) Horticultural uses and the raising of crops;

(2) Single-family dwelling;

6.203 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

(1) Accessory uses and structures normally appurtenant to the permitted used and structures and to uses and structures permitted as exceptions;

(2) Home occupations;

6.204 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Council may permit the following conditional uses as exceptions in the RL Residential Low Density District in accordance with ARTICLE 13 of this Ordinance.

- (1) Public and quasi-public uses of an educational, recreational, religious type, including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, private nonprofit schools and colleges; churches, parsonages, and other religious institutions;
- (2) Public and private charitable institutions;
- (3) Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures, and facilities;
- (4) Cemeteries;
- (5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;
- (6) Signs subject to SECTION 10.15 of this Ordinance.

6.205            **CONDITIONS FOR GRANTING EXCEPTIONS:** The requirements of ARTICLE 13 of this Ordinance shall apply as minimum requirements for granting exceptions in the RL Residential Low Density District.

6.206            **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the RL Residential Low Density District.

6.207            **MINIMUM LOT REQUIREMENTS:**

- (1) The minimum lot area for single family dwellings shall be twelve thousand (12,000) square feet;
- (2) Each lot shall have not less than fifty (50) feet of frontage when a lot fronts on a cul-de-sac or loop street;
- (3) The minimum width of each lot shall be eighty (80) feet;
- (4) Each lot shall have a depth of not less than one hundred (100) feet.

6.208            **MINIMUM YARD REQUIREMENTS:**

- (1) Front yard: There shall be minimum front yard of not less than a depth of one hundred (100) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or thirty-five (35) feet from the property line, whichever is greater. On all other

streets or highways there shall be a minimum front yard of not less than a depth of twenty-five (25) feet. Accessory structures shall be subject to the provisions of SECTION 10.4 of this Ordinance.

- (2) Rear Yard: The minimum rear yard of a principal structure shall be twenty-five (25) feet provided, however, that where construction involves more than one story, the rear yard shall be increased by ten (10) feet for each additional story. Accessory structures shall be subject to the provisions of SECTION 10.4 of this Ordinance.
- (3) Side yards: The minimum side yards of a principal structure and its accessory structures shall be seven (7) feet, provided that where construction involves more than one story, the side yards shall be increased by five (5) feet for each additional one-half story, or ten (10) feet for each additional story. Accessory structures shall be subject to the provisions of SECTION 10.4 of this Ordinance. (Ord. 1315, 12/84)
- (4) Distance between structures: The minimum distances between a residential or another principal structure and another structure shall be ten (10) feet except when adjacent exterior walls shall be a non-combustible fire-resistant rated wall, as provided by the Building Codes in effect in the City of Gering, then the minimum distance shall be five (5) feet between such structures. (Ord. 1360, 10/86)

6.209           **MAXIMUM LOT COVERAGE:** The maximum lot coverage shall not exceed forty (40) percent of the total lot area.

6.210           **MAXIMUM HEIGHT:** The height of all principal structures shall not exceed thirty-five (35) feet subject to the provisions of SECTION 11.5 of this Ordinance. The maximum height of all accessory structures shall not exceed eighteen (18) feet. (Ord. 1328, 6/85)

6.211           **SIGN REGULATIONS:** All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

### SECTION 6.3: RM RESIDENTIAL MEDIUM DENSITY DISTRICT

6.301           **INTENT:** This district is intended primarily to provide living areas within the City where development is limited to medium density concentrations of one-family dwellings where regulations are designed to accomplish the following: To promote and encourage a suitable environment for family life; to provide space for areas and for institutions which require a residential environment; to minimize traffic congestion and to avoid the overloading of utilities and public facilities designed to service only one-family residential uses in accord with standards of the comprehensive plan.

6.302           **PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right.

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- (1) Horticultural uses and the raising of crops;

(2) Single-family dwelling.

6.303 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

(1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;

(2) Home occupations.

6.304 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Council may permit the following conditional uses as exceptions in the RM Residential Medium Density District in accordance with ARTICLE 13 of this Ordinance.

(1) Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools, junior high schools; high schools and colleges; churches, nursery schools; private nonprofit schools and colleges; parsonages, and other religious institutions, public parks, public playgrounds.

(2) Public and private charitable institutions:

(3) Public uses of an administrative, public service or cultural type including city, county, street or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;

(4) Cemeteries;

(5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;

(6) Two family dwellings;

(7) Signs subject to SECTION 10.15 of this Ordinance.

6.305 CONDITIONS FOR GRANTING EXCEPTIONS: The requirements of ARTICLE 13 of this Ordinance shall apply as minimum requirements for granting exceptions in the RM residential Medium Density District.

6.306 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the RM Residential Medium Density District.

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6.307 MINIMUM LOT REQUIREMENTS:

- (1) The minimum lot area for single-family dwellings shall be seven thousand two hundred (7,200) square feet; the minimum lot area for two family dwellings shall be twelve thousand (12,000) square feet and the minimum lot area per dwelling unit shall be six thousand (6,000) square feet.
- (2) The minimum width of each lot shall be seventy (70) feet, except each lot shall have not less than forty (40) feet of frontage when a lot fronts on a cul-de-sac or loop street.
- (3) Each lot shall have a depth of not less than ninety (90) feet.

6.308 MINIMUM YARD REQUIREMENTS: (Ord. 1627, 10/98)

- (1) Front yard: There shall be a minimum front yard setback for principal structures of not less than twenty-five (25) feet from the front property line. Accessory structures shall be subject to the provisions of SECTION 10.4 of this Ordinance.
- (2) Rear yard: The minimum rear yard setback for principal structures shall be ten (10) feet from the rear lot line provided the structure does not cover more than forty (40) percent of the width of the rear yard. If the principal structure covers more than forty (40) percent of the width of the rear yard, the minimum setback shall be twenty (20) feet. Accessory structures shall be subject to the provisions of SECTION 10.4 of this Ordinance.
- (3) Side yards: The minimum interior side yard setback for the principal structure shall be five (5) feet from the property line. The minimum setback for the principal structure from a side yard which is adjacent to a street on a corner lot shall be one-half (1/2) the distance of the front setback or twelve and one-half (12 1/2) feet. Accessory structures shall be subject to the provisions of SECTION 10.4 of this Ordinance.
- (4) Distance between structures: The minimum distance between a principal structure and another structure or accessory structure shall be ten (10) feet except when adjacent walls shall be constructed to provide a minimum of one (1) hour fire protection as provided by the Building and Fire Codes as adopted by the City of Gering, then the minimum distance shall be five (5) feet.

6.309 MAXIMUM LOT COVERAGE: The maximum lot coverage shall not exceed forty (40) percent of the total lot area.

6.310 MAXIMUM HEIGHT: The height of all principal structures shall not exceed thirty-five (35) feet subject to the provisions of SECTION 11.5 of this Ordinance. The maximum height of all accessory structures shall not exceed eighteen (18) feet. (Ord 1328, 6/85)

SECTION 6.4: RML MULTI-FAMILY RESIDENTIAL LOW DENSITY DISTRICT

6.401 INTENT: This district is intended primarily to provide living areas within the city where development is limited to low density concentrations of multiple-family dwellings and single family dwellings which are compatible in character and density with the multiple-family residential environment where regulations are designed to accomplish the following: to promote and encourage a suitable environment for family life; to provide space for community facilities needed to compliment urban residential areas and for institutions which require a residential environment; to minimize traffic congestion and to avoid the overloading of utilities and public facilities designed to service only residential and residential service uses in accord with standards of the comprehensive plan.

6.402 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Single family dwelling;
- (2) Two family dwelling.

6.403 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;
- (2) Home occupations.

6.404 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled the City Council may permit the following conditional uses as exceptions in the RML Multi-Family Residential Low Density District in accordance with ARTICLE 13 of this Ordinance.

- (1) Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools; private nonprofit schools and colleges, churches, parsonages, and other religious institutions; public parks, public playgrounds;
- (2) Public and private charitable institutions;
- (3) Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;

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- (4) Cemeteries;

- (5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;
- (6) Convalescent, nursing and rest homes;
- (7) Hospitals, medical and dental clinics and other medical and health facilities;
- (8) Professional offices;
- (9) Funeral homes and funeral chapels;
- (10) Multi-family dwellings to a maximum of 6 units;
- (11) Signs subject to SECTION 10.15 of this Ordinance;

6.405            **CONDITIONS FOR GRANTING EXCEPTIONS:** The requirements of ARTICLE 13 of this Ordinance shall apply as minimum requirements for granting exceptions in the RML Multi-Family Residential Low Density District

6.406            **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the RML Multi-Family Residential Low Density District.

6.407            **MINIMUM LOT REQUIREMENTS:**

- (1) The minimum lot area for single-family dwellings shall be six thousand (6,000) square feet;
- (2) The minimum lot area for two family and multiple-family dwellings shall be eight thousand (8,000) square feet and the minimum lot area per dwelling unit shall be four thousand (4,000) square feet.
- (3) Each lot shall have not less than forty (40) feet of frontage when a lot fronts on a cul-de-sac or loop street:
- (4) The minimum width of each lot shall be sixty (60) feet.
- (5) Each lot shall have a depth of not less than eighty (80) feet.

6.408            **MINIMUM YARD REQUIREMENTS:**

- (1) **Front yard:** There shall be a minimum front yard of not less than a depth of one hundred (100) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street

or highway or thirty-five (35) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of twenty (20) feet from the property line.

- (2) Rear yard: The minimum rear yard of a permitted use and its accessory structures shall be ten (10) feet, provided, however that where construction involved more than one story, and the site lies adjacent to a site in a single-family residential district, the rear yard shall be increased by ten (10) feet for each additional story. Where the rear of the site abuts on an alley right-of-way, the rear yard may be decreased one (1) foot for each two (2) feet of such alley right-of-way. Accessory structures under six (6) feet in height may be located within any portion of a required rear yard, subject to the provisions of SECTION 10.4 of this Ordinance;
- (3) Side yards: The minimum side yards of a permitted use and its accessory structures shall be five (5) feet per story, subject to the following conditions: (Ord. 1315, 12/84)
  - a. On the side street of a corner lot, side yards shall not be less than fifteen (15) feet;
  - b. A side yard providing access to more than one dwelling unit shall be not less than ten (10) feet;
  - c. Where construction involves more than one story and the site lies adjacent to a site in a single-family residential district, the side yards shall be increased by five (5) feet for each additional one-half story or ten (10) feet for each additional story;
  - d. Attached or detached garages or carports fronting on the street side yard of a corner lot shall be set back a minimum of twenty (20) feet from the property line on a straight driveway approach or fifteen (15) feet from the property line where the garage opening is perpendicular to the property line requiring a curved driveway approach.
- (4) Distance between structures: The minimum distance between a residential or other principal structure and other structure shall be ten (10) feet except when adjacent exterior walls shall be a non-combustible fire-resistant rated wall, as provided by the building Codes and the Fire Codes as in effect in the City of Gering, then the minimum distance shall be five (5) feet between such structures. (Ord. 1360, 10/86)

6.409 MAXIMUM LOT COVERAGE: The maximum lot coverage shall not exceed forty (40) percent of the total lot area.

6.410 MAXIMUM HEIGHT: The height of all principal structures shall not exceed thirty-five (35) feet subject to the provisions of SECTION 11.5 of the Ordinance. The maximum height of all accessory structures shall not exceed eighteen (18) feet. (Ord. 1328, 6/85)

6.411 SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

## SECTION 6.5: RMH MULTI-FAMILY RESIDENTIAL HIGH DENSITY DISTRICT

6.501 INTENT: This district is intended primarily to provide living areas within the City where development is limited to high density concentrations or multiple-family

dwellings and single family dwellings which are compatible in character and density with the multiple-family residential environment where regulations are designed to accomplish the following: To promote and encourage a suitable environment for family life; to provide space for community facilities needed to compliment urban residential areas and for institutions which require a residential environment; to minimize traffic congestion and to avoid the overloading of utilities and public facilities designed to service only residential and residential service uses in accord with standards of the comprehensive plan.

6.502 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Two family dwellings;
- (2) Multiple-family dwellings.

6.503 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;
- (2) Home occupations.

6.504 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Council may permit the following conditional uses as exceptions in the RMH Multi-Family Residential High Density District in accordance with ARTICLE 13 of this Ordinance.

- (1) Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools; private and nonprofit schools and colleges; churches, parsonages, and other religious institutions; public parks, public playgrounds;
- (2) Public and private charitable institutions;
- (3) Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;
- (4) Cemeteries;
- (5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;

- (6) Convalescent, nursing and rest homes and elderly housing in accordance with the federal Fair Housing Act; (Ord. 1846, 4/07)
- (7) Boarding and rooming houses;
- (8) Hospitals, medical and dental clinics and other medical and health facilities;
- (9) Professional offices;
- (10) Funeral homes and funeral chapels;
- (11) Mobile home parks under prescribed conditions of SECTION 10.13 of this Ordinance;
- (12) Single-family dwellings;
- (13) Signs subject to SECTION 10.15 of this Ordinance.

6.505            **CONDITIONS FOR GRANTING EXCEPTIONS:** The requirements of ARTICLE 13 of this Ordinance shall apply as minimum requirements for granting exceptions in the RMH Multi-Family Residential High Density District.

6.506            **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the RMH Multi-Family Residential High Density District.

6.507            **MINIMUM LOT REQUIREMENTS:**

- (1) The minimum lot area for single-family dwellings shall be five thousand (5,000) square feet;
- (2) The minimum lot area for two-family dwellings and multiple-family dwellings, containing from two to six dwelling units, shall be three thousand (3,000) square feet per dwelling unit; for multiple-family dwelling containing more than six dwelling units, there shall be one thousand five hundred (1,500) square feet per dwelling unit.
- (3) Each lot shall have not less than forty (40) feet of frontage when a lot fronts on a cul-de-sac or loop street.
- (4) The minimum width of each lot shall be sixty (60) feet.
- (5) Each lot shall have a depth of not less than eighty (80) feet.

6.508            **MINIMUM YARD REQUIREMENTS:**

- (1) Front yard: There shall be a minimum front yard of not less than a depth of one hundred (100) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or thirty-five (35) feet from the property line, whichever is greater. On all other

streets or highways there shall be a minimum front yard of not less than a depth of fifteen (15) feet from the property line.

- (2) Rear yard: The minimum rear yard of a permitted use and its accessory structures shall be ten (10) feet, provided, however, that where construction involves more than one story, and the site lies adjacent to a site in a single-family residential district, the rear yard shall be increased by ten (10) feet for each additional story. Where the rear of the site abuts on an alley right-of-way, the rear yard may be decreased one (1) foot for each two (2) feet of such alley right-of-way. Accessory structures under six (6) feet in height may be located within any portion of a required rear yard subject to the provisions of SECTION 10.4 of this Ordinance.
- (3) Side yards: The minimum side yards of a permitted use and its accessory structures shall be five (5) feet per story, subject to the following conditions:
- a. On the street side of a corner lot, side yards shall not be less than ten (10) feet;
  - b. A side yard providing access to more than one dwelling unit shall be not less than ten (10) feet;
  - c. Where construction involves more than one story and the site lies adjacent to a site in a single-family residential district, the side yards shall be increased by five (5) feet for each additional story.
  - d. Attached or detached garages or carports fronting on the street side yard of a corner lot shall be set back a minimum of twenty (20) feet from the property line on a straight driveway approach or fifteen (15) feet from the property line where the garage opening is perpendicular to the property line requiring a curved driveway approach.
- (4) Distance between structures: The minimum distance between a residential or other principal structure and another structure shall be ten (10) feet except when adjacent exterior walls shall be a non-combustible fire-resistant rated wall, as provided by the Building Codes and the Fire Codes as in effect in the City of Gering, the minimum distance shall be five (5) feet between such structures. (Ord. 1360, 10/86)

6.509            MAXIMUM LOT COVERAGE: The maximum lot coverage shall not exceed seventy (70) percent of the total lot area.

6.510            MAXIMUM HEIGHT: The maximum height of a permitted use and its accessory structures shall be fifty-five (55) feet. The maximum height of a use permitted as an exception and its accessory structures shall be seventy (70) feet.

6.511            SIGN REGULATIONS: All signs shall be in conformance with regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

**SECTION 6.6    GCE GOLF COURSE ESTATE DISTRICT (Ord. 1565, 5/96)**

6.601            INTENT: It is the intent of this zoning district to establish a residential zone which will allow the development of a golf course and a residential living environment as a joint

use with a variety of single family housing types while preserving the value and quality which are customarily appurtenant to and associated with a golf course/open area development.

6.602 PERMITTED PRINCIPAL USES: The following shall be permitted as uses by right.

- (1) Single family detached and single family attached (not more than six {6} dwellings attached in one cluster) dwellings.
- (2) Independent and assisted living facilities for elderly and disabled (not to include or to be interpreted as rest homes, nursing homes or group care homes).
- (3) Golf courses and activities appurtenant to and customarily associated with a golf course which would include but not be limited to: driving range, golf cart storage and repair facilities, pro-shop, club house, restaurant (provided it is included in the same building as the club house or pro-shop), snack food services, rest rooms and starter facilities.
- (4) Accessory structures and uses normally appurtenant to the permitted uses.

6.603 CONDITIONAL USES: The following shall be permitted upon satisfying reasonable conditions as imposed by the City Council upon recommendation by the Planning Commission in accordance with ARTICLE 13 of this ordinance.

- (1) Home Occupations.
- (2) Public utility facilities.
- (3) Temporary subdivisions sales offices and signs and model home display areas.

6.604 PROHIBITED USES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the GCE Golf Course Estates zoning district.

6.605 MINIMUM LOT REQUIREMENTS:

- (1) The minimum lot area shall be eleven thousand five hundred (11,500) square feet.
- (2) Each lot shall have not less than ninety (90) feet of width measured at a distance of twenty-five (25) feet within the lot from the front lot line.

6.606 MINIMUM YARD REQUIREMENTS:

- (1) Front yard: The minimum front yard setback is twenty-five (25) feet from the front lot line.
- (2) Side yards, interior lot: The minimum side yard setback is eight (8) feet from the property line.
- (3) Rear yard, interior lot: The minimum rear yard setback is twenty-five (25) feet from the rear property line.
- (4) Side yards, corner lot: The minimum side yard setback on the side which faces a street on a corner lot shall be twenty-five (25) feet. The remaining interior side yard setback shall be ten (10) feet from the property line.
- (5) Rear yard, corner lot: The minimum rear yard setback on a corner lot (rear yard is opposite the front of the dwelling) shall be ten (10) feet from the property line.

Accessory Structures:

- (6) Detached accessory buildings shall be located a minimum of five (5) feet beyond the back line of the principal structure and shall have a minimum setback of five (5) feet from interior side lot lines, twenty-five (25) feet from a side lot line facing a street. The minimum setback from the rear lot line shall be ten (10) feet.
  - (7) No buildings shall be allowed in the required front yard or side yard facing a street.
- 6.607            **MAXIMUM LOT COVERAGE:** The maximum lot coverage (principal structures or dwelling and all accessory buildings) shall be forty (40) percent.
- 6.608            **MAXIMUM HEIGHT:** The height of all principal structures shall not exceed thirty-five (35) feet measured on the side of the building facing the front yard. The maximum height of accessory buildings shall be eighteen (18) feet measured from the average grade contiguous to the accessory building.
- 6.609            **FENCES:** No fences shall be allowed in a required front yard or a required side yard which faces a street in the GCE Golf Course Estates District.

The several classes of business and commercial districts included in this Ordinance are designed to provide the opportunity for the various types of retail stores, offices, service establishments and wholesale business to concentrate for the convenience of the public; to be established in such relationships to each other as to be mutually beneficial; and to be located and grouped on sites that are in logical proximity to the respective geographical areas and respective categories of patrons which they serve.

**SECTION 7.1: BNC (C-1) NEIGHBORHOOD COMMERCIAL DISTRICT**

7.101 INTENT: The BNC Neighborhood Commercial District is intended primarily for the provision of retail and personal service facilities to satisfy the convenience-goods needs of the consumer relatively close to his/her place of residence.

7.102 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as use by right.

- (1) Business offices.
- (2) Professional offices.
- (3) Retail stores and service establishments which supply commodities or provide services primarily to meet the convenience needs of residents of one or more residential neighborhoods including:
  - Apparel stores
  - Bakery goods stores
  - Banks, including drive-in banks
  - Barbershops and beauty shops
  - Bookstores and rental libraries
  - Camera shops, photographic supplies and photography studios
  - Candy and confectionery stores
  - Christmas tree sales lots
  - Cleaning agencies (pickup and delivery only)
  - Dairy products stores
  - Drugstores
  - Dry goods stores
  - Electrical appliance and incidental repair shops
  - Florists
  - Food lockers (no slaughtering)
  - Food stores, delicatessens, supermarkets
  - Garden supply stores and nurseries, provided that all equipment, supplies and merchandise, other than plants, shall be kept within completely enclosed buildings or under a lathed structure, and further to provide that fertilizer of any type shall be stored and sold in packaged form only.

Gift shops  
 Hardware stores  
 Hobby and art supply stores  
 Locksmiths  
 Newsstands and magazine stores  
 Pressing, altering and repairing of wearing apparel  
 Radio and television stores and repair shops  
 Restaurants, tearooms and cafes, including outdoor cafes,  
     including the sale of alcoholic beverages  
 Self-service laundries and self-service dry cleaning establishments  
 Shoe stores  
 Soda fountains  
 Stationery stores  
 Tailors and dressmakers  
 Variety stores

(4) Signs in accordance with the provisions of SECTION 10.15 of this Ordinance.

7.103           **PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions:
- (2) One-family dwellings over or to the rear of a permitted use, provided that such dwellings are primarily for the use of the person or persons owning or operating the commercial use on the same site.

7.104           **EXCEPTIONS:** After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Council may permit the following conditional uses as exceptions in the BNC Neighborhood Commercial District in accordance with ARTICLE 13 of this Ordinance.

- (1) Service stations (gasoline), excluding automotive repair services not included in the definition of "Automotive Service Station" as provided in SECTION 3.301 of this Ordinance, provided that all operations except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two (2) sides.
- (2) Electric distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations and/or elevated pressure tanks.
- (3) Drive-in restaurants.

7.105           **CONDITIONS FOR GRANTING EXCEPTIONS:** Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the regulations shall apply as minimum requirements for granting exceptions in the Neighborhood Commercial District.

- (1) Where a site adjoins or is located across an alley from any R Residential district, a solid wall or fence, vine covered open fence or compact evergreen hedge six (6) feet in height shall be located on the property line common to such districts, except in a required front yard.
- (2) Open storage of material attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six (6) feet in height, provided that no materials or equipment shall be stored in a height greater than that of the wall or fence.
- (3) Not less than five (5) feet of a required yard adjoining a street shall be landscaped and permanently maintained.
- (4) All business, services and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and off-street loading areas, gasoline service stations, outdoor dining areas, nurseries, garden shops, Christmas tree sale lots, and electric distribution substations.
- (5) All products produced on the site of any permitted use shall be sold primarily at retail on the site where produced.
- (6) No use shall be permitted and no process, equipment or materials shall be used which are found by the Board to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

7.106            **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the BNC Neighborhood Commercial District.

7.107            **MINIMUM LOT REQUIREMENTS:** No limitation.

7.108            **MINIMUM YARD REQUIREMENTS:**

- (1) **Front yard:** There shall be a minimum front yard of not less than a depth of eighty (80) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway of fifteen (15) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of fifteen (15) feet from the property line.
- (2) **Rear yard:** The minimum rear yard abutting an R Residential District shall be ten (10) feet.
- (3) **Side yard:** The minimum side yard abutting an R Residential District shall be ten (10) feet.

- (4) Distance between structures: The minimum distances between a residential or other principal structure and another structure shall be ten (10) feet except when adjacent exterior walls shall be a non-combustible fire-resistant rated wall, as provided by the Building Codes and the Fire Codes as in effect in the City of Gering, then the minimum distance shall be five (5) feet between such structures. (Ord. 1360, 10/86)
- 7.109 MAXIMUM LOT COVERAGE: The maximum lot coverage shall not exceed seventy (70) percent of the total lot area.
- 7.110 MAXIMUM HEIGHT: No structure shall exceed thirty-five (35) feet in height.
- 7.111 SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

**SECTION 7.2: BCB (C-2) CENTRAL BUSINESS DISTRICT:**

7.201 INTENT: The intent of the BCB Central Business District is to provide a commercial area for those establishments serving the general shopping needs of the trade area and in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities.

7.202 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Business offices.
- (2) Professional offices.
- (3) Retail stores and service establishments which supply commodities or provide services primarily to meet the needs of residents of the trade area including:

- Addressograph service
- Apparel stores
- Art and antique stores
- Art and craft schools
- Art galleries
- Artists supply stores
- Bakery goods store
- Banks, including drive-in banks, and other lending agencies
- Bars, cocktail lounges and nightclubs
- Bicycle shops
- Billiard and pool halls
- Blueprint and photostat shops
- Bookstores and rental libraries
- Bowling alleys

Bus depots and transit stations, provided that buses or other transit vehicles shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site.

Camera shops, photographic supplies and photography studios

Candy, ice cream, nut and confectionery stores

Cleaning and laundry agencies

Clothing and costume rental establishments

Communications equipment buildings

Dairy products stores

Dance halls

Drugstores

Dry goods stores

Electrical appliances and incidental repair shops

Employment agencies

Exterminators

Feed and seed stores, provided that sales and storage are confined within an enclosed structure

Fire and police stations

Florists

Food stores, delicatessens and supermarkets

Furniture stores

Garden shops

Gunsmith shops

Hardware stores

Hobby and art supply stores

Home furnishings

Hotels, motels, and apartment hotels

Household appliance and repair shops

Interior decorating shops

Jewelry stores, including clock and watch repairing

Laundries

Leather goods and luggage stores

Libraries

Liquor stores

Locksmiths

Medical and orthopedic appliance stores

Meeting halls

Music stores

Music and dance studios

Newsstands and magazine stores

Office and office buildings

Optician and optometrist offices

Paint and wallpaper stores

Parcel delivery services

Pet stores

Photography studios

Post offices  
 Printing shops  
 Pressing, altering and repairing of wearing apparel establishments  
 Radio and television stores and repair shops  
 Restaurants and cafes  
 Secondhand stores and pawnshops  
 Secretarial services and letter shops  
 Shoe stores  
 Sporting good stores  
 Sports arenas within buildings  
 Stamps and coin stores  
 Stationery stores  
 Tailor and dressmaking shops  
 Telephone answering services  
 Telegraph offices  
 Theaters and auditoriums  
 Toy stores  
 Upholstery shops

(4) Signs, in accordance with the provisions of SECTION 10.15 of this Ordinance.

7.203 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;
- (2) A one-family dwelling over or to the rear of a permitted use, provided that such dwellings are primarily for the use of the person or persons owning or operating the business/commercial use on the same site. (Ord. 1657, 1/00)

7.204 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit the following conditional uses as exceptions in the BCB Central Business District in accordance with ARTICLE 13 of this Ordinance.

- (1) Service stations (gasoline), excluding automotive repair services not included in the definition of "Automotive Service Station" as provided by the Ordinance, provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least 2 sides;
- (2) Electrical distribution substations and gas regulator stations;
- (3) Churches and other religious institutions;
- (4) Public parks;
- (5) Private clubs and lodges;
- (6) Public buildings and grounds;

- (7) Residential uses, provided that such uses shall be prohibited from occupying the first or ground floor or basement of any structures;
- (8) Other trade or service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district.
- (9) Mini-storage rental buildings. (Ord. 1472, 5/92)
- (10) Transitional Housing Facility (Ord. 1582, 4/97)
- (11) Communication Towers (not to exceed 150 feet in height) (Ord. 1609, 3/98)
- (12) Commercial Day Care Centers (all day care centers must comply with all State statutes and regulations pertaining to them) (Ord. 1681, 4/01)

7.205           **SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS:**  
 Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall apply as minimum requirements for all uses in the BCB Central Business District.

- (1) Where a site adjoins or is located across an alley from any Residential District, a solid wall or fence, vine covered open fence or compact evergreen hedge six (6) feet in height shall be located on the property line common to such districts except in a required front yard. Where a site adjoins or is located across an alley from any RMH Multi-Family Residential High Density District, no fencing is required. (Ord. 1759, 5/04).
- (2) Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six (6) feet in height, provided that no materials or equipment shall be stored to a height greater than that of the wall or fence.
- (3) All business, services and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and off-street loading areas, gasoline service stations, garden shops, bus depot and transit stations, electric distribution substations, and automobile sales.
- (4) No use shall be permitted and no process, equipment or materials shall be used which are found by the Commission to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

7.206           **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the BCB Central Business District.

7.207           **MINIMUM LOT REQUIREMENTS:** No Limitations.

7.208 MINIMUM YARD REQUIREMENTS:

- (1) Front yard: No limitations, provided that where a lot is abutting on property in any Residential District and fronting on the same street, there shall be a minimum front yard of ten (10) feet.
- (2) Rear yard: None, except the minimum rear yard abutting an R Residential District shall be twenty (20) feet;
- (3) Side yard: None, except the minimum side yard abutting an R Residential District shall be ten (10) feet. Where a lot is abutting on property in a RMH Multi-Family Residential High Density District across an alley, there shall be a minimum side yard setback of five (5) feet. (Ord. 1759, 5/04)
- (4) Distance between structures: The minimum distances between a residential or other principal structure and another structure shall be ten (10) feet except when adjacent exterior walls shall be a non-combustible fire-resistant rated wall, as provided by the Building Codes and the Fire Codes as in effect in the City of Gering, then the minimum distance shall be five (5) feet between structures. (Ord. 1360, 10/86)

7.209 MAXIMUM LOT COVERAGE: No limitations, excepting those noted in SECTION 7.208.

7.210 MAXIMUM HEIGHT: No structures shall exceed seventy-five (75) feet.

7.211 SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.1505 of this Ordinance.

SECTION 7.3: BHC (C-3) HIGHWAY COMMERCIAL DISTRICT

7.301 INTENT: The BHC District is intended primarily for application to areas along major highway entrances to the community in accord with policies of the Comprehensive Plan where controlled access to the highway is afforded for the convenience of patrons traveling the highway.

7.302 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Establishments which provide services or supply commodities primarily for the convenience of patrons traveling on state highways and major county road entrances to the community including:

- Auto Service Stations
- Bus depots and transit stations
- Farm equipment and sales display
- Frozen food lockers

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- Hotels and motels
- Ice cream, candy, and confectionery stores

Mortuaries  
Repair garages  
Recreational vehicle sales, service and rentals  
New and used car sales  
Plumbing, Electrical, Welding, Heating, Lumber  
and similar sales and service. (Ord. 1439, 11-26-90)  
Medical and dental clinics and other medical  
and health facilities. (Ord. 1492, 1-25-93)

- (2) Overnight recreational vehicle parking areas limited to six (6) spaces in conjunction with another permitted use.
- (3) Signs subject to SECTION 10.15 of this Ordinance.
- (4) Road side rest areas.
- (5) Restaurants, night clubs, cafes and taverns (Ord 1842, 3/07)
- (6) Drive-in restaurant or similar establishment (Ord 1842, 3/07)

7.303            **PERMITTED ACCESSORY USES AND STRUCTURES:** The following accessory uses and structures shall be permitted.

- (1) Use and structures clearly incidental to the permitted use.
- (2) Storage warehouses in conjunction with permitted principal use.
- (3) Temporary buildings used in conjunction with construction, provided such buildings are removed promptly upon completion of the construction work.
- (4) A one-family dwelling over or to the rear of a permitted use, provided that such dwellings are primarily for the use of the person or persons owning or operating the business/commercial use on the same site. (Ord. 1657, 1/00)

7.304            **EXCEPTIONS:** After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit the following conditional uses as exceptions in the BHC Highway Commercial District in accordance with ARTICLE 13 of this Ordinance.

- (1) Golf driving ranges; pony rings; riding stables; skating rinks; sports arenas and sport stadiums.
- (2) Churches and other religious institutions.
- (3) Private clubs and lodges.

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- (4) Veterinarian or animal hospitals, provided any such building, kennel, or exercise runway is located at least one hundred (100) feet away from any "R" District boundary.

- (5) When located at least one hundred (100) feet away from any "R" District boundary.
  - Bowling alley
  - Drive-in theater
  - Off-street parking
  - Highway maintenance buildings and use facilities
  - Utility substations
  - Other similar place of entertainment or amusement

(6) Mini-storage rental buildings. (Ord. 1472, 5/92)

(7) Transitional Housing Facility. (Ord. 1582, 4/97)

7.305            **SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS:**  
 Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall apply as minimum requirements for all uses in the BHC Highway Commercial District.

- (1) Where a site adjoins or is located across the alley from any Residential District, a solid wall or fence, vine covered open fence or compact evergreen hedge six (6) feet in height, shall be located on the property line common to such districts, except in a required front yard.
- (2) Open space of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six (6) feet in height, provided that no materials or equipment shall be stored to a height greater than that of the wall or fence.
- (3) No use shall be permitted and no process, equipment or materials shall be used which are founded by the Board to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

7.306            **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the BHC Highway Commercial District.

7.307            **MINIMUM LOT REQUIREMENTS:** There shall be no minimum lot area.

7.308            **MINIMUM YARD REQUIREMENTS:**

- (1) Front yard: There shall be a minimum front yard of not less than a depth of one hundred (100) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or thirty-five (35) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of twenty-five (25) feet from the property line. These yard requirements shall apply to any yard abutting a Federal Aid-Primary or Federal Aid-Secondary designated street or highway regardless of the lot being an interior or corner lot.

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- (2) Rear yard: None, except the minimum rear yard abutting an R Residential District shall be twenty-five (25) feet;

- (3) Side yard: None, except the minimum side yard abutting an R Residential District shall be ten (10) feet;
- (4) Distance between structures: The minimum distances between a residential or other principal structure and another structure shall be ten (10) feet except when adjacent exterior walls shall be a non-combustible fire-resistant rated wall, as provided by the Building Codes and the Fire Codes as in effect in the City of Gering, then the minimum distance shall be five (5) feet between such structures. (Ord. 1360, 10/86)

7.309            MAXIMUM LOT COVERAGE: No limitations, excepting those noted in SECTION 7.308.

7.310            MAXIMUM HEIGHT: No structure shall exceed thirty-five (35) feet.

7.311            SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

SECTION 7.4: BTS (C-4) TRAVELER SERVICES DISTRICT (Ord. 1775, 9/04)

7.401            INTENT: The BTS/C-4 District is intended to preserve land adjacent to primary highway interchanges for the development of businesses that cater to the traveling public. This district is not intended to serve as a general retail area for businesses primarily engaged in the provision of services or sale of retail goods to local residents.

7.402            PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1)            Automobile service stations – full service or self service.
- (2)            Convenience stores, with or without dispensing gasoline.
- (3)            Restaurants including drive-in restaurants.
- (4)            Eating and drinking establishments.
- (5)            Hotels, motels and other lodging facilities.
- (6)            Truck fueling and repair services (not including trailer washing facilities).

7.403            PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

- (1)            Food service and vending machines.
- (2)            Automatic bank teller machines.
- (3)            Off-street parking and loading serving the principal use.

- (4) Storage of goods sold by a principal commercial activity, or used in or produced by a principal commercial activity.
- (5) Television, radio receiving and transmitting equipment, and satellite dishes, not exceeding sixty feet in height and subject to other regulations contained herein.
- (6) Temporary construction, grading and demolition activities necessary and incidental to the development of facilities on the same lot.
- (7) Open areas devoted to decorative paving, swimming pools, and other similar uses located on the same lot and directly associated with the principal use.
- (8) Storage and service areas and buildings serving the principal use, provided that storage buildings do not exceed 150 square feet in size.
- (9) Other uses clearly associated with the BTS/C-4 Traveler Services District.

7.404           EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit the following conditional uses as exceptions in the BTS/C-4 Traveler Services District in accordance with ARTICLE 13 of this Ordinance.

- (1) Churches and other religious institutions.
- (2) Municipal/government facilities.

7.405           SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall apply as minimum requirements for all uses in the BTS/C-4 Traveler Services District.

- (1) Where a site adjoins or is located across the alley from any Residential District, a solid wall or fence, vine covered open fence or compact evergreen hedge six (6) feet in height, shall be located on the property line common to such districts, except in a required front yard. Where a site adjoins or is located across an alley from any RMH Multi-Family Residential High Density District, no fencing is required.
- (2) Open space of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six (6) feet in height, provided that no materials or equipment shall be stored to a height greater than that of the wall or fence.

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- (3) No use shall be permitted and no process, equipment or materials shall be used which are founded by the Board to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

7.406 **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the BTS/C-4 Traveler Services District.

7.407 **LANDSCAPING AND SCREENING STANDARDS:** Landscaping and screening standards subject to SECTION 10.19 of this Ordinance.

(1) Generally, landscape depth – street side(s): 25 feet

(2) Bufferyard and screening – 25 feet adjoining AGG, RRE, RL and RM Zoning

7.408 **MINIMUM LOT REQUIREMENTS:** There shall be no minimum lot area.

7.409 **MINIMUM YARD REQUIREMENTS:**

Use	Minimum Lot Size	Minimum Lot Width	Setbacks				Maximum Height
			Front	Rear	Side	Side Street	
1. Principal Structure	None	None	50'	A	B	50'	35'
2. Accessory Structure	n/a	n/a	50'	A	B	50'	35'

A. No rear yard is required unless abutting any residential district in which case a 20' rear yard shall be provided.

B. A 10' side yard shall be required unless abutting any residential district in which case a 20' side yard shall be provided.

7.410 **MAXIMUM LOT COVERAGE:** No limitations, excepting those noted in SECTION 7. 7.409.

(1) No lot shall be covered by buildings and/or parking areas in excess of 85% of the total land area available. Land shall not be deemed covered if used for growing grass, shrubs, trees, plants or flowers, or if covered by decorative gravel or wood chips, or if otherwise suitably landscaped.

7.411 **SIGN REGULATIONS:** All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

- 7.501 INTENT: The BEC/C-5 District is intended to preserve land adjacent to primary highway interchanges and local thoroughfares for the development of higher traffic retail, commercial, office and/or industrial uses carried on entirely indoors.
- 7.502 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.
- (1) Hotels and motels.
  - (2) Restaurants including drive-in restaurants.
  - (3) Professional and office buildings.
  - (4) Any use of a research, repairing, manufacturing, fabricating, processing, assembling, or storage nature so long as the use is conducted entirely within enclosed buildings and does not produce offensive noise, odor, dust, etc.
  - (5) Utility and service facilities.
- 7.503 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.
- (1) Food service and vending machines.
  - (2) Automatic bank teller machines.
  - (3) Off-street parking and loading serving the principal use.
  - (4) Storage of goods sold by a principal commercial activity, or used in or produced by a principal commercial activity.
  - (5) Television, radio receiving and transmitting equipment, and satellite dishes, not exceeding sixty feet in height and subject to other regulations contained herein.
  - (6) Temporary construction, grading and demolition activities necessary and incidental to the development of facilities on the same lot.
  - (7) Open areas devoted to decorative paving, swimming pools, and other similar uses located on the same lot and directly associated with the principal use.
  - (8) Storage and service areas and buildings serving the principal use, provided that storage buildings do not exceed 150 square feet in size.
  - (9) Other uses clearly associated with the BEC/C-5 Employment Center District.

7.504 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit the following conditional uses as exceptions in the BTS/C-4 Traveler Services District in accordance with ARTICLE 13 of this Ordinance.

(1) Churches and other religious institutions.

(2) Municipal/government facilities.

7.505 SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall apply as minimum requirements for all uses in the BEC/C-5 Employment Center District.

(1) Where a site adjoins or is located across the alley from any Residential District, a solid wall or fence, vine covered open fence or compact evergreen hedge six (6) feet in height, shall be located on the property line common to such districts, except in a required front yard. Where a site adjoins or is located across an alley from any RMH Multi-Family Residential High Density District, no fencing is required.

(2) Open space of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six (6) feet in height, provided that no materials or equipment shall be stored to a height greater than that of the wall or fence.

(3) No use shall be permitted and no process, equipment or materials shall be used which are founded by the Board to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

7.506 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the BEC/C-5 Employment Center District.

7.507 LANDSCAPING AND SCREENING STANDARDS: Landscaping and screening standards subject to SECTION 10.19 of this Ordinance.

(1) Generally, landscape depth – street side(s): 25 feet

(2) Bufferyard and screening – 25 feet adjoining AGG, RRE, RL and RM Zoning

7.508 MINIMUM LOT REQUIREMENTS: There shall be no minimum lot area.

7.509 MINIMUM YARD REQUIREMENTS:

Use	Minimum Lot Size	Minimum Lot Width	Setbacks				Maximum Height
			Front	Rear	Side	Side Street	
1. Principal Structure	None	None	50'	A	B	50'	35'
2. Accessory Structure	n/a	n/a	50'	A	B	50'	35'

- A. No rear yard is required unless abutting any residential district in which case a 20' rear yard shall be provided.
- B. A 10' side yard shall be required unless abutting any residential district in which case a 20' side yard shall be provided.

7.510            **MAXIMUM LOT COVERAGE:** No limitations, excepting those noted in SECTION 7.509.

- (1) No lot shall be covered by buildings and/or parking areas in excess of 85% of the total land area available. Land shall not be deemed covered if used for growing grass, shrubs, trees, plants or flowers, or if covered by decorative gravel or wood chips, or if otherwise suitably landscaped.

7.511            **SIGN REGULATIONS:** All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

## ARTICLE 8: M INDUSTRIAL AND MANUFACTURING DISTRICTS

The industrial zones are intended to achieve the following purposes: To reserve appropriately located areas for various types of industrial plants and related activities; to protect areas appropriate for industrial use from intrusion by residences and other inharmonious uses; to protect residential and commercial properties and to protect nuisance-free non-hazardous industrial uses; to provide opportunities for certain types of industrial plants to concentrate in the needs of modern industrial development, including off-street parking and truck loading areas, and to provide industrial opportunities for residents of the City.

### SECTION 8.1: ML LIGHT INDUSTRIAL AND MANUFACTURING DISTRICT

8.101 INTENT: The intent of this district is to provide space for certain commercial and a wide range of industrial uses and structures which are able to meet certain performance standards to protect nearby non-commercial and non-industrial uses from undesirable environmental conditions. Residential and other similar uses are prohibited from this district in order to limit environmental effects associated with certain commercial and industrial uses, irrespective of their meeting performance standards.

8.102 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Wholesale, storage and warehouse uses;
- (2) Signs subject to Section 10.15 of this Ordinance;
- (3) Any industrial use which can meet the performance standards for this district set forth in SECTION 10.16 of this Ordinance provided, such is not specifically prohibited.
- (4) Communication Towers (not to exceed 150 in height) (Ord. 1609, 3/98)

8.103 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;
- (2) Offices, retail stores and watchmen's living quarters incidental to and on the same site with an industrial use;
- (3) Medical facilities accessory to an industrial use.
- (4) A one-family dwelling over or to the rear of a permitted use, provided that such dwellings are primarily for the use of the person or persons owning or operating the business/commercial use on the same site. (Ord. 1657, 1/00)

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- 8.104           EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the Planning Commission may permit as exceptions any use, including Transitional Housing Facilities, which is consistent with the intent of this district and which is not prohibited in accordance with ARTICLE 13 of this Ordinance.  
(Ord. 1582, 4/97)
- 8.105           CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall apply as minimum requirements for granting exceptions in the ML Light Industrial and Manufacturing District.
- (1)           All uses shall meet or exceed the performance standards set forth in SECTION 10.1601 of this Ordinance.
  - (2)           A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from a Residential District, shall be screened by a solid wall or fence, vine covered open fence or compact evergreen hedge, not less than six (6) feet in height, if found by the Board to be unsightly.
  - (3)           Where a site adjoins a Residential District, a solid wall or fence, vine covered open fence or compact evergreen hedge, six (6) feet in height, shall be located on the property line except in a required front yard.
  - (4)           Open storage of materials and equipment shall be permitted only within an area surrounded and screened by a solid wall or fence or compact evergreen hedge (with solid gates where necessary), not less than six (6) feet in height, provided that no material shall be stored to a height greater than that of the wall, fence or hedge.
  - (5)           The storage above ground or below ground of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed one hundred fifty thousand (150,000) gallons when stored on one (1) lot of less than one (1) acre in area nor shall storage exceed more than twenty-five thousand (25,000) gallons in one (1) tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of twenty-five thousand (25,000) gallons, shall not be located closer than fifty (50) feet from any structure intended for human habitation or closer than two hundred (200) feet from any Residential or Business District.
  - (6)           All open and unlandscaped portions of any lot shall be maintained in good condition free from weeds, trash and debris.
- 8.106           PROHIBITED USES AND STRUCTURES: All residential dwellings of any kind, and all other uses and structures which are not specifically permitted, or cannot meet the performance standards for industry set forth in SECTION 10.1601 of this Ordinance of which are not permissible as exceptions, shall be prohibited.
- 8.107           MINIMUM LOT REQUIREMENTS: No limitations.

## 8.108 MINIMUM YARD REQUIREMENTS:

- (1) Front yard: There shall be a minimum front yard of not less than a depth of one hundred (100) feet from the center of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or thirty-five (35) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of twenty-five (25) feet from the property line. These yard requirements shall apply to any yard abutting a Federal Aid-Primary or Federal Aid-Secondary designated street or highway regardless of the lot being an interior or corner lot.
- (2) Rear yard: None, except the minimum rear yard abutting a Residential District shall be twenty-five (25) feet.
- (3) Side yard: None, except the minimum side yard abutting a Residential District shall be ten (10) feet.
- (4) Distance between structures: The minimum distance between principal structures shall be twenty (20) feet except when adjacent exterior walls shall be non-combustible fire-resistant walls as provided for in the Building Codes and Fire Codes of the City of Gering, then the minimum distance shall be five (5) feet. (Ord. 1360, 10/86)

8.109 MAXIMUM LOT COVERAGE: No limitations, excepting those noted in SECTION 8.108.

8.110 MAXIMUM HEIGHT: No structure shall exceed forty-five (45) feet.

8.111 SIGN REGULATIONS: All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

## SECTION 8.2: MH HEAVY INDUSTRIAL AND MANUFACTURING DISTRICT

8.201 INTENT: The intent of this district is to provide space for the widest range of industrial operations permitted in the City, for those industrial uses which are able to meet certain performance standards to protect nearby non-commercial and non-industrial uses from desirable environmental conditions. Residential and other similar uses are prohibited from this district in order to limit environmental effects associated with certain commercial and industrial uses, irrespective of their meeting performance standards.

8.202 PERMITTED PRINCIPAL USE AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Wholesale, storage and warehouse uses;
- (2) Signs subject to SECTION 10.15 of this Ordinance;
- (3) Agricultural uses;

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- (4) Automobile service stations;
- (5) Any industrial use which can meet the performance standards for this district set forth in SECTION 10.1602 of this Ordinance provided, such is not specifically prohibited;
- (6) Contractors yard;
- (7) Grain elevator;
- (8) Livestock auction or sales barn;
- (9) Auto wrecking yard or junk yard only when located inside a building or when wholly enclosed by a well-maintained fence not less than eight (8) feet in height.
- (10) Communication Towers (not to exceed 150 feet in height) (Ord. 1609, 3/98)
- (11) Tattoo parlor meeting the following conditions: (Ord. 1825, 4/06)
  - a. Prior to operating a tattoo parlor, the operator/practitioner must first apply for and receive a permit and certificate of occupancy from the City of Gering Inspector. The permit is subject to revocation if the permittee at any time fails to comply with the conditions set forth herein.
  - b. The operator/practitioner must comply with any and all federal, state and local regulations pertaining to the activity of tattoo artistry on the human skin.
  - c. The operator/practitioner must submit to regular and/or unannounced inspections by the City of Gering Inspector, the Scotts Bluff County Department of Health, and any other authority empowered to regulate such activities.
  - d. All instruments and equipment must be cleaned and sterilized before use. Sterilization of equipment shall be accomplished by exposure to live steam for at least thirty (30) minutes at a minimum pressure of fifteen (15) pounds per square inch, temperature of two hundred forty (240) degrees Fahrenheit or one hundred sixteen (116) degrees Celsius.
  - e. The operator/practitioner must positively identify each client and keep record of the client's name, age, mailing address and phone number and not dispose of such information for a period of at least ten (10) years. Any transfer in ownership or operation of the business will result in revocation of the permit. All records shall be relinquished to the City of Gering Inspector at that time.
  - f. The operator/practitioner may not perform work on anyone eighteen (18) years of age or younger without written permission from the minor's parent/parents or legal guardian.

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- g. The operator/practitioner shall comply with the OSHA (Occupation Safety and Health Act) blood borne pathogen rules as it relates to the disposition of hazardous waste materials.
- h. To prevent the cause and/or spread of infection or disease, any and all tattoo needles used for each client shall be disposed of properly and not reused.

8.203 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted.

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions;
- (2) Offices, retail stores and watchman’s living quarters incidental to and on the same site with an industrial use;
- (3) Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry.

8.204 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit as exceptions any use which is consistent with the intent of this district and which is not prohibited in accordance with ARTICLE 13 of this Ordinance.

- (1) Helicopter landing and takeoff pads.

8.205 CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall apply as minimum requirements for granting exceptions in the MH Industrial and Manufacturing District.

- (1) All uses shall meet or exceed the performance standards set forth in SECTION 10.1602 of this Ordinance.
- (2) Where a site adjoins a Residential District, a solid wall, or fence, vine covered open fence or compact evergreen hedge, six (6) feet in height, if found by the Board to be unsightly.
- (3) A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from a Residential District, shall be screened by a solid wall or fence, vine covered open fence or compact evergreen hedge, not less than six (6) feet in height, if found by the Board to be unsightly.

- (4) Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of twenty-five thousand (25,00) gallons, shall not be located closer than fifty (50) feet from any structure intended for human habitation or closer than two hundred (200) feet from any Residential or Business District.
- 8.206           **PROHIBITED USES AND STRUCTURES:** All residential dwellings of any kind, and all other uses and structures which are not specifically permitted, cannot meet the performance standards of industry set forth in SECTION 10.1602 of this Ordinance or which are not permissible as exceptions shall be prohibited.
- 8.207           **MINIMUM LOT REQUIREMENTS:** No limitations.
- 8.208           **MINIMUM YARD REQUIREMENTS:**
- (1)           **Front yard:** There shall be minimum front yard of not less than a depth of one hundred (100) feet from the center line of a Federal Aid-Primary or Federal Aid-Secondary designated street or highway or thirty-five (35) feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of twenty-five (25) feet from the property line. These yard requirements shall apply to any yard abutting a Federal Aid-Primary or Federal Aid-Secondary designated street or highway regardless of the lot being an interior or corner lot.
- (2)           **Rear yard:** None, except the minimum rear yard abutting a Residential District shall be twenty-five (25) feet.
- (3)           **Side yard:** None, except the minimum side yard abutting a Residential District shall be ten (10) feet.
- (4)           **Distance between structures:** The minimum distances between principal structures shall be twenty (20) feet except when adjacent exterior walls shall be non-combustible fire-resistant rated walls as provided for in the Building Codes and Fire Codes of the City of Gering, then the minimum distance shall be five (5) feet. (Ord. 1360, 10/86)
- 8.209           **MAXIMUM LOT COVERAGE:** No limitations, excepting those noted in SECTION 8.208.
- 8.210           **MAXIMUM HEIGHT:** No structure shall exceed eight (8) stories.
- 8.211           **SIGN REGULATIONS:** All signs shall be in conformance with the regulations provided herein and with the provisions of SECTION 10.15 of this Ordinance.

## ARTICLE 9: SPECIAL, MODIFIED AND APPENDED DISTRICTS

These district regulations are intended to provide specific conditions for uses and structures which would otherwise not be included in the district regulations of ARTICLE 5 through 8 of this Ordinance.

These districts are indicated on the Official Zoning Map. The district regulations would, therefore, include the district regulations for the parent zoning districts and the text of the appended district regulations.

The special zoning district provided in ARTICLE 9 is also intended for use in special cases where the zoning regulations are to be amended to accommodate particular planned development.

### SECTION 9.1: SFP FLOOD PLAN DISTRICT

- 9.101            **INTENT:** This district is intended for application in those areas which have been defined by the Nebraska Natural Resources Commission as being Commission Floodways or which by reason of historical documentation and other data have been defined by the Planning Commission as being flood hazard areas. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof; to minimize the hazard of loss of lives and property caused by floods; and to secure safety from floods through the confinement of floods through reasonable limits by regulating and restricting areas of development along or in natural watercourses and drainways.
- This district is created to be appended to any district which is subject to periodic flooding.
- 9.102            **PERMITTED PRINCIPAL USES AND STRUCTURES:** Any permitted principal use and structure in the Parent District to which this district is made a part, provided, that such uses and structures meet the minimum requirements of SECTION 9.105 of this Ordinance.
- 9.103            **PERMITTED ACCESSORY USES AND STRUCTURES:** Any permitted accessory use and structure in the Parent District to which this district is made a part, provided, that such uses and structures meet the minimum requirements of SECTION 9.105 of this Ordinance.
- 9.104            **EXCEPTIONS:** After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit all conditional uses permitted as exceptions in the Parent District or which this district is made a part.
- 9.105            **SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS:** Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall supplement the Special Conditions and/or Conditions for Granting Exceptions which are provided in the Parent District of which this district is made a

part. These regulations shall supersede those of Parent District where there is a conflict among regulations.

- (1) Where, by reason of flooding potential, the Zoning Administrator determined that there are detrimental or limiting conditions for development or where there is indicated the possibility of detrimental or limiting conditions for development, the Zoning Administrator shall require such person or persons making application for a building permit to provide four (4) copies of the following to the City Planning Commission:
  - a. A site plan at an appropriate scale indicating the name and address of the applicant; lot dimensions and legal description of the property; the location, elevation, size, height, and proposed use of all structures; yards and space between structures; off-street parking; location of public streets and highways and points of pedestrian and vehicular ingress and egress; signs; areas which will require significant land forming.
  - b. Topographic information providing the elevations of the site above mean sea level, the proposed first floor elevations of all principal structures and accessory structures, and all specifications for grading and fill.
- (2) The Zoning Administrator shall transmit one (1) copy of all required documentation to the Natural Resource District for review and comment. Such review and comment, if any, shall be made a part of the record of the Planning Commission.
- (3) As conditions for granting a building permit, the Board may require specific measures which are intended to minimize the hazard due to flooding and which shall include the following:
  - a. The first floors of buildings or structures shall be placed one (1) foot above the elevation of the 100 year flood;
  - b. Foundations of all structures shall be designed and constructed to withstand flood conditions at the proposed construction site;
  - c. Basements, lower floors, or appurtenances located below the elevation of the 100 year flood shall be designed and constructed to prevent passage of water into the building or structure and to withstand flood conditions, including hydrostatic pressures of elevated water tables and the momentum of flood flows. Materials for construction shall be of a type not deteriorated appreciably by water. Windows, doorways, and other openings into the building or structure that are located below the elevation of the 100 year flood shall be designed and constructed incorporating adequate flood proofing;
  - d. All electrical equipment, circuits, and installed electric appliance shall be located so as to not be subject to flooding or shall be flood proofed to prevent damage resulting from inundation from the 100 year flood;
  - e. Sanitary and storm sewer drains shall be equipped with valves capable of being closed, manually or automatically, to prevent backup of sewage and storm waters into the building or structure. Gravity draining of basements may be eliminated by mechanical devices;

- f. Any chemical storage, explosive, buoyant, and inflammable liquid storage shall be located above the 100 year flood level or shall be adequately flood proofed to prevent flotation of tanks or other appreciable damage or escape into the flood waters of toxic materials;
- g. Land may be filled provided such fill extends 15 feet beyond the limits of any building or structure erected thereon.

9.106 **PROHIBITED USES AND STRUCTURES:** All uses prohibited in the Parent District of which this district is made a part shall be prohibited.

9.107 **MINIMUM LOT REQUIREMENTS:** The lot requirements of the Parent District for which this district is made a part shall be the minimum lot requirements subject to additional requirements as prescribed by the City Planning Commission.

9.108 **MINIMUM YARD REQUIREMENTS:** The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements subject to additional requirements as prescribed by the City Planning Commission.

9.109 **MAXIMUM LOT COVERAGE:** The lot coverage requirements of the Parent District of which this district is made a part shall be the maximum lot coverage requirements subject to additional requirements as prescribed by the City Planning Commission.

9.110 **MAXIMUM HEIGHT:** The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements subject to additional requirements as prescribed by the City Planning Commission.

9.111 **SIGN REGULATIONS:** The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Planning Commission.

## SECTION 9.2: SPD PLANNED DEVELOPMENT DISTRICT

9.201 **INTENT:** The provisions of this Section are to be applied in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units warrants modification of the standards contained elsewhere in this Ordinance. A planned development, to be eligible under this Section must be:

- (1) In accordance with the Comprehensive Plan of the City including all plans for redevelopment and renewal;
- (2) Composed of such uses, and in such proportions, as are most appropriate and necessary for the integrated functioning of the planned development and for the City; and

- (3) So designed in its space allocation, orientation, texture, materials, landscaping and other features as to produce an environment of stable and desirable character, complementing the design and values of the surrounding neighborhood, and showing such unusual merit as to reflect credit upon the City.

This district is created to be appended to any residential, commercial, or industrial district or combination thereof to provide for the placement and location of more than one building on a lot in an arrangement to permit more feasible, original and better siting of buildings.

9.202 PERMITTED PRINCIPAL USES AND STRUCTURES: Uses and structures permitted under the provisions of the regulations of the Parent District of which this district is made a part shall be permitted.

9.203 PERMITTED ACCESSORY USES AND STRUCTURES: Accessory uses and structures permitted under the provisions of the regulations of the Parent District and those normally appurtenant to the uses and structures permitted as exceptions shall be permitted.

9.204 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit conditional uses permitted as Exceptions in the Parent District of which this district is made a part.

9.205 SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of Article 13 of this Ordinance, the following regulations shall supplement the Special Conditions and/or Conditions for Granting Exceptions which are provided in the Parent District of which this district is made a part. These regulations shall supersede those of the Parent District where there is a conflict among regulations.

- (1) MINIMUM AREA OF TRACT: The minimum area of a tract of land to be zoned as an appended SPD Planned Development District is dependent on the Parent District as follows:

<u>PARENT ZONING DISTRICT</u>	<u>MINIMUM AREA (Acres)</u>
Residential	3
Commercial	2
Industrial	8

The tract for use as a SPD Planned Development District shall be under single or joint ownership.

- (2) Procedures: When a property owner or developer intends to develop a tract of land containing at least the minimum area for the Parent District and involving more than one dwelling unit, he/she may apply for zoning the property to a SPD Planned Development District. The

rezoning change shall be an amendment to the zoning map as an appendage to the existing Parent District. The rezoning change may also be a request to change the existing Parent District to another Parent District with the SPD Planned Development District.

An applicant for a change in zoning to SPD Planned Development District must satisfy the Planning Commission that he/she has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction.

Such applicant also shall prepare and submit a Preliminary Development Plan for review and approval by the Planning Commission which shall include:

- a. A topographic map showing contours at intervals of two feet;
- b. A plot plan showing:
  1. Building and sign structures locations on the tract.
  2. Access for streets.
  3. Parking arrangement and number of spaces.
  4. Interior drives and service areas.
  5. Area set aside for public open space.
- c. Location map showing the development and zoning of the adjacent property within 200 feet, including the location and the type of buildings and structures thereon.
- d. The full legal description of the boundaries of the properties to be included in the area to be zoned SPD Planned Development District.
- e. A map showing the general arrangement of all streets bounding the area to be zoned SPD Planned Development District.
- f. A map showing location of proposed sewer, water and other utility lines.
- g. A description of general character of proposed buildings and signs to be placed on the site.

The applicant may further be asked to furnish other information, such as typical building floor plans, building elevations to show the general architectural character of the buildings, some indications as to size and type of landscape plant materials, pavements, and other major site improvements.

The applicant may be asked to submit the tentative financial plan and description of the intended means of financing any proposed common areas or common improvements, and statements covering ownership and maintenance of common easements or other common areas, such as open space or recreational facilities.

Upon approval of the Preliminary Development Plan by the Planning Commission, the applicant shall prepare and submit a Final Development Plan, which shall incorporate any changes or alterations requested. Alterations in the preliminary schedule of construction shall be submitted at this time. The final Development Plan and the Planning Commission's recommendation shall be forwarded to the City Council for their review and final action.

In the event that, within 18 months following approval by the Planning Commission, the applicant does not proceed with construction in accordance with the plan so approved, the Planning Commission shall initiate action to rezone the property to the original zoning district. A public hearing, as required by law, shall be advertised and held at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and shall make a recommendation to the City Council.

All plans and documents shall become a part of the amendment and shall form the basis for issuance of a building permit in conformity therewith.

Changes in the Development Plan, which increase the number of dwelling units or establishments, the arrangement of buildings, the number of parking stalls, any increase in size or number of other improvements, and the alignment of driveways or roadways shall require a resubmission for approval of the application for rezoning. Any minor changes or adjustments or decrease in the number of dwelling units, common facilities and recreation facilities may be approved by the Zoning Administrator without resubmission.

9.206            **PROHIBITED USES AND STRUCTURES:** All uses prohibited in the Parent District of which this district is made a part shall be prohibited.

9.207            **MINIMUM LOT REQUIREMENTS:** The lot requirements of the Parent District of which this district is made a part shall be a guide for the minimum lot requirements subject to review and written requirements as prescribed by the City Planning Commission. (Ord. 1801, 8/05)

In the event the tract of land to be developed as an SPD Planned Development District lies in more than one Parent District, the provisions of the more restrictive Parent District shall be applicable.

Area Requirements (Ord. 1801, 8/05)

In an appended residential district, the number of dwelling units that may be permissible on the proposed tract to be developed as an SPD Planned Development District shall be determined by using the lot area per dwelling unit requirements of the zoning district, provided, however, that the total lot area of the proposed tract shall be reduced by the areas covered or occupied by the buildings, street, roadways, drives, parking areas, and unusable land areas such as streams, drainage ways, creeks, or land with grade slopes exceeding a twenty-five percent (25%) grade.

9.208            **MINIMUM YARD REQUIREMENTS:** The yard requirements of the Parent District of which this district is made a part shall be a guide for the minimum yard requirements subject to review and written requirements as prescribed by the City Planning Commission. (Ord. 1801, 8/05)

- 9.209           **MAXIMUM LOT COVERAGE:** The lot coverage requirements of the Parent District of which this district is made a part shall be a guide for the maximum lot coverage requirements subject to review and written requirements as prescribed by the City Planning Commission. (Ord. 1801, 8/05)
- 9.210           **MAXIMUM HEIGHT:** The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements subject to additional requirements as prescribed by the City Planning Commission.
- 9.211           **SIGN REGULATIONS:** The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulation subject to additional requirements as prescribed by the City Planning Commission.

### SECTION 9.3: SMH MOBILE HOME DISTRICT

- 9.301           **INTENT:** This district is intended for those areas where it is determined that mobile homes as defined in SECTION 3.301 of this Ordinance are compatible with the character of conventional housing and, further, that for the purposes of SECTION 9.3 of this Ordinance, mobile homes shall be considered to be single family dwelling units subject to the same use regulations as conventional single-family dwelling units.
- 9.302           **PERMITTED PRINCIPAL USES AND STRUCTURES:** Any permitted principal use and structure in the Parent District to which this district is made a part shall be permitted including mobile homes, provided that such mobile homes meet the minimum requirements of SECTION 9.305 of this Ordinance.
- 9.303           **PERMITTED ACCESSORY USES AND STRUCTURES:** Accessory uses and structures permitted under the provisions of the regulations of the Parent District and those normally appurtenant to the uses and structures permitted as exceptions shall be permitted.
- 9.304           **EXCEPTIONS:** After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Council may permit all Permitted Principal Uses and Structures and all conditional uses permitted as Exceptions in the Parent District of which this district is made a part.
- 9.305           **SPECIAL CONDITIONS AND CONDITIONS FOR GRANTING EXCEPTIONS:** Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall supplement the Special Conditions and/or Conditions of Granting Exceptions which are provided in the Parent District of which this district is made a part. These regulations shall supersede those of the Parent District where there is a conflict among regulations.
- (1)           The mobile homes shall be placed on a permanent foundation of concrete block or poured reinforced concrete or other comparable foundations which meets the minimum standards of the

building code for single-family dwelling building foundations. The permanent foundations shall be adequate for the placement and tie-down of the mobile home, thereby securing the super-structures against uplift, sliding, rotation, or overturning.

Anchors and tie-downs shall be placed at each corner of the mobile home or trailer unit at intervals not to exceed ten (10) feet and shall be able to resist the design wind pressures and in any event shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.

- (2) The mobile home shall be served by water and sewer facilities comparable to the water and sewer facilities required for conventional single-family dwelling units.
- (3) The mobile home and mobile home lot shall conform to the minimum lot and yard requirements for single-family dwellings as specified in the district regulation of the Parent District.

9.306            **PROHIBITED USES AND STRUCTURES:** All uses prohibited in the Parent District of which this district is made a part shall be prohibited.

9.307            **MINIMUM LOT REQUIREMENTS:** The lot requirements of the Parent District of which this district is made a part shall be the minimum yard lot requirements.

9.308            **MINIMUM YARD REQUIREMENTS:** The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements.

9.309            **MAXIMUM LOT COVERAGE:** The lot coverage requirements of the Parent District of which this district is made a part shall be the maximum lot coverage requirements.

9.310            **MAXIMUM HEIGHT:** The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements.

9.311            **SIGN REGULATIONS:** The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Council.

**SECTION 9.4: PTD TOWNHOUSE DEVELOPMENT ZONE**

9.401            **INTENT: Purpose.** This zone is designed to be appended to another basic residential zone as to provide for innovations in the platting of lots and sublots, and in the siting of buildings.

A subplot is a subordinate and integral part of a lot. The subplot shall be identified on the subdivision plat for the purpose of constructing a single townhouse unit.

A townhouse is a building that has single family units erected in a row as a single building on adjoining unit or units by a party wall or walls extending from the basement floor to the roof along the dividing subplot line, and each such building being separated from any other building by spaces on all sides.

- 9.402 PERMITTED PRINCIPAL USE AND STRUCTURES: Any principal use permitted in the primary zone to which the PTD-Planned Townhouse Development Zone classification is appended.
- 9.403 PERMITTED ACCESSORY USES AND STRUCTURES: Any permitted accessory use allowed in the primary zone to which the PTD-Planned Townhouse Development Zone classification is appended.
- 9.404 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit conditional uses permitted as exceptions in the Parent District of which this district is made a part.
- 9.405 SPECIAL CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall supplement the Special Conditions and/or Conditions for Granting Exceptions which are provided in the Parent District of which this district is made a part. These regulations shall supersede those of the Parent District where there is a conflict among regulations.
- When a property Owner wishes to develop a parcel of property for a townhouse project, the Owner may apply for a zoning change to a PTD-Planned Townhouse Development Zone. Said zoning change shall be an amendment to the zoning map and shall follow all procedural requirements for such changes set forth herein.
- (1) As an exhibit accompanying the application for amendment to the zoning map, the owner shall provide a detailed site plan with such other sketches, diagrams, and calculations necessary to determine compliance with the provisions of this zone and the primary zone to which it is appended. The exhibit shall be prepared in accordance with Section 21.2, Preliminary Plat Contents. Such exhibits shall become a part of the amendment and shall form the basis for issuance of building permits in conformity herewith.
- (2) Before approving a PTD-Planned Townhouse Development Zone Classification, the Planning Commission shall find the following:
- a. That the proposed modification of the primary zone regulations as to siting of buildings and platting of sublots will be in the public interest, in harmony with the purposes of this Ordinance and will not adversely affect nearby properties.
  - b. That no building will be closer to any boundary lot line than permitted in the primary zone, and that the overall density of development does not exceed that permitted in the primary zone.
  - c. That an amount of open space equivalent to that specified in the primary zone will be provided.

- d. Upon City Planning Commission approval of the PTD-Planned Townhouse Development Zone, the applicant shall prepare a final plat in accordance with Section 21.3 of the Subdivision Regulations.

(3) Off-Street parking shall be provided for all uses established in this zone.

The entire townhouse development may be considered as one zoning lot in the design of the project.

- 9.406 **PROHIBITED USES AND STRUCTURES:** All uses prohibited in the Parent District of which this district is made a part shall be prohibited.
- 9.407 **MINIMUM LOT REQUIREMENTS:** The lot requirements of the Parent District of which this district is made a part shall be the minimum yard lot requirements.
- 9.408 **MINIMUM YARD REQUIREMENTS:** The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements.
- 9.409 **MAXIMUM LOT COVERAGE:** The lot coverage requirements of the Parent District of which this district is made a part shall be the maximum lot coverage requirements.
- 9.410 **MAXIMUM HEIGHT:** The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements.
- 9.411 **SIGN REGULATIONS:** The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Council.

#### SECTION 9.5: SCOTTS BLUFF NATIONAL MONUMENT HISTORIC SITE DISTRICT

- 9.501 **INTENT:** The intent of this district is to preserve, protect, and enhance the historical view and significance of the Scotts Bluff National Monument. The boundaries of this district are shown on the Official Zoning map of Gering. This district is created to be appended to any district as provided for by this Ordinance.
- 9.502 **PERMITTED PRINCIPAL USES AND STRUCTURES:** Any permitted principal use and structure in the Parent District to which this district is made a part.
- 9.503 **PERMITTED ACCESSORY USES AND STRUCTURES:** Any permitted accessory use and structure in the Parent District to which this district is made a part.
- 9.504 **EXCEPTIONS:** After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit all conditional uses permitted as exceptions in the Parent District of which this district is made a part.

- 9.505            PROHIBITED USES AND STRUCTURES: All uses prohibited in the Parent District of which this district is made a part shall be prohibited.
- 9.506            MINIMUM LOT REQUIREMENTS: The lot requirements of the Parent District of which this district is made a part shall be the minimum yard lot requirements.
- 9.507            MINIMUM YARD REQUIREMENTS: The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements.
- 9.508            MAXIMUM LOT COVERAGE: The lot coverage requirements of the Parent District of which this district is made a part shall be the maximum lot coverage requirements.
- 9.509            MAXIMUM HEIGHT: The height requirements of structures must not exceed one (1) story in height within the first 150 feet west of the Highway 71 right-of-way line within the Historic Site District. A story is hereby defined as fifteen (15) feet in height.
- Structure height in the remainder of the Historic Site District must not exceed two (2) stories in height (Ord. 1498, 3-1-93)
- 9.510            SIGN REGULATIONS: The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations.

SECTION 9.6:    SFD SINGLE FAMILY DEVELOPMENT ZONE (Ord. 1636, 5/99)

- 9.601            INTENT: Purpose. This zone is designed to be appended to another basic residential zone and to provide for single family detached development.
- 9.602            PERMITTED PRINCIPAL USE AND STRUCTURES: The principal use shall be restricted to SFD - Single Family detached dwellings only.
- 9.603            PERMITTED ACCESSORY USES AND STRUCTURES: Any permitted accessory use allowed in the primary zone to which the SFD - Single Family Development Zone classification is appended.
- 9.604            EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit conditional uses permitted as exceptions in the Parent District of which this district is made a part.
- 9.605            SPECIAL CONDITIONS FOR GRANTING EXCEPTIONS: Notwithstanding the requirements of ARTICLE 13 of this Ordinance, the following regulations shall supplement the Special Conditions and/or Conditions for Granting Exceptions which are provided in the Parent District of which this district is made a part. These regulations shall supersede those of the Parent District where there is a conflict among regulations.

- (1) Before approving a SFD - Single Family Development Zone classification, the Planning Commission shall find the following:
- a. That the proposed modification of the primary zone regulations as to siting of buildings and platting of sublots will be in the public interest, in harmony with the purposes of this Ordinance and will not adversely affect nearby properties.
  - b. That no building will be closer to any boundary lot line than permitted in the primary zone, and that the overall density of development does not exceed that permitted in the primary zone.
  - c. That an amount of open space equivalent to that specified in the primary zone will be provided.
- 9.606 PROHIBITED USES AND STRUCTURES: All uses prohibited in the Parent District of which this district is made a part shall be prohibited.
- 9.607 MINIMUM LOT REQUIREMENTS: The lot requirements of the Parent District of which this district is made a part shall be the minimum yard lot requirements.
- 9.608 MINIMUM YARD REQUIREMENTS: The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements.
- 9.609 MAXIMUM LOT COVERAGE: The lot coverage requirements of the Parent District of which this district is made a part shall be the maximum lot coverage requirements.
- 9.610 MAXIMUM HEIGHT: The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements.
- 9.611 SIGN REGULATIONS: The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Council.

**SECTION 9.7: WEA WELLHEAD ENCROACHMENT AREA DISTRICT (Ord. 1701, 1/02)**

- 9.701 INTENT: Purpose. This district is designed to designate a Wellhead Encroachment Area for the City of Gering, Nebraska, for the purpose of protection of the public water supply system. This district is created to be appended to any district as provided for by this Ordinance.
- 9.702 DEFINITIONS: Wellhead Encroachment Area means the surface and subsurface area surrounding municipal water wells, through which contaminants are reasonably likely to move toward and reach such water or water wells.

- 9.703 The City of Gering designates a Wellhead Encroachment Area for the purpose of protection of the public water supply system. The boundaries of the Wellhead Encroachment Area are listed following and the 500 foot and 1,000 foot distances are delineated on Map A, and incorporated for reference.
- (1) Within the designated Wellhead Encroachment Area, the City shall not issue any permit to operate any of the below described facilities within the indicated number of horizontal feet from the City of Gering municipal water wells.
  - (2) Any well drilled within the Wellhead Encroachment Area for monitoring and dewatering of groundwater shall meet Nebraska Health and Human Services Title 178 Regulations.
  - (3) Private wells for domestic, commercial, industrial and agricultural use shall not be drilled within the Wellhead Encroachment Area. However, the above restrictions do not apply to dewatering and groundwater monitoring wells which are allowed within WEA Wellhead Encroachment Area District.

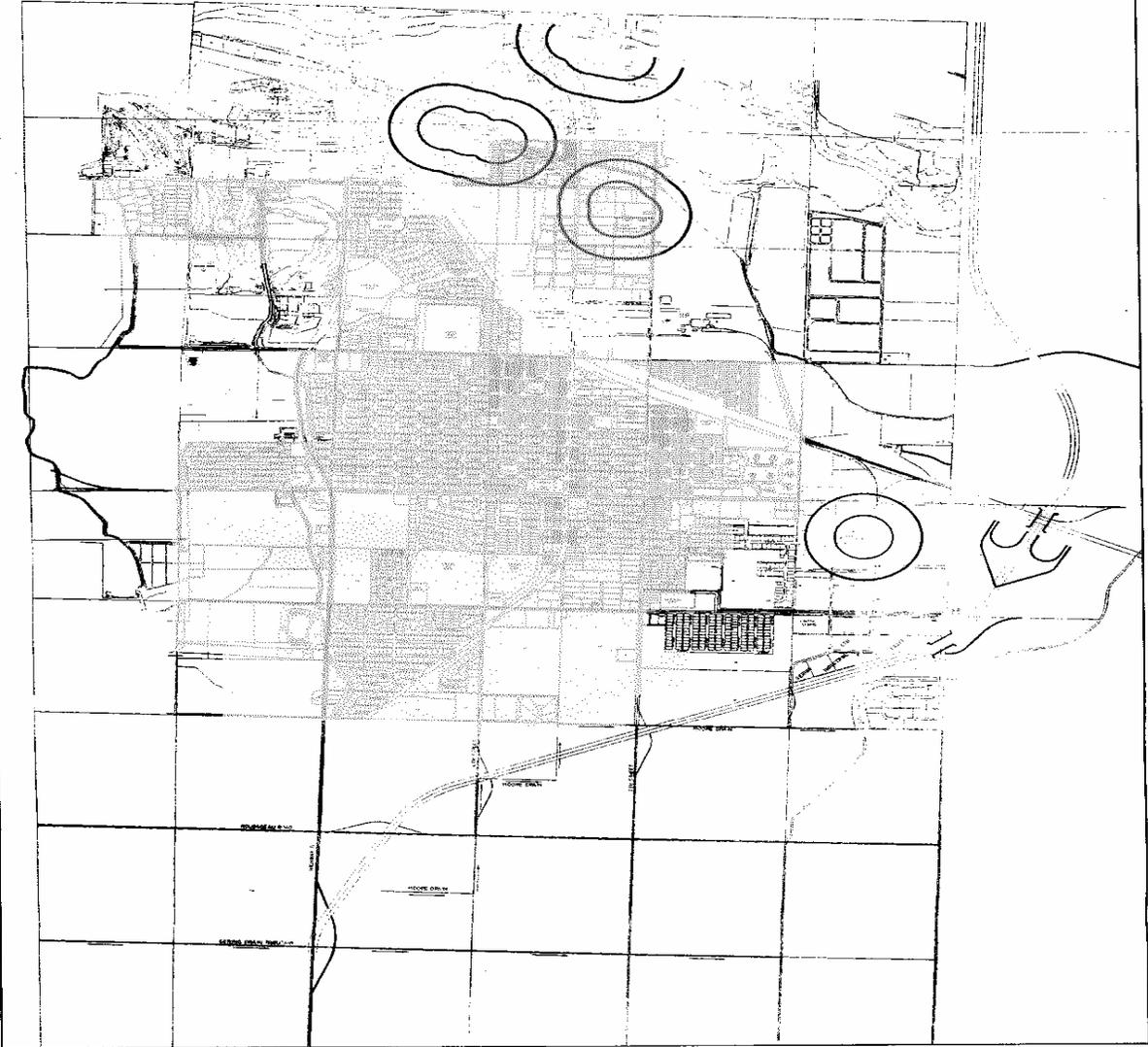
<u>Category</u>	<u>Feet</u>	<u>Meters</u>
Non-Potable Water Well	1,000	300
Sewage Lagoon	1,000	300
Chemical or Petroleum Product Storage	500	150
Absorption or Disposal Fields for Waste	500	150
Cesspool	500	150
Dump	500	150
Feedlot or Feedlot Runoff	500	150
Corral	500	150
Pit Toilet	500	150
Sanitary Landfill	500	150
Septic Tank	500	150
Sewage Treatment Plant	500	150
Sewage Wet Well	500	150
Sanitary Sewer Connection	100	30
Sanitary Sewer Manhole	100	30
Sanitary Sewer Line	50	15
Sanitary Sewer Line (Permanently Watertight)	10	3

- 9.704 **PERMITTED PRINCIPAL USES AND STRUCTURES:** Any permitted principal use and structure in the Parent District to which this district is made a part.
- 9.705 **PERMITTED ACCESSORY USES AND STRUCTURES:** Any permitted principal use and structure in the Parent District to which this district is made a part.
- 9.706 **EXCEPTIONS:** After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Planning Commission may permit conditional uses permitted as exceptions in the Parent District of which this district is made a part.

- 9.707        **PROHIBITED USES AND STRUCTURES:** All uses prohibited in the Parent District of which this district is made a part shall be prohibited.
- 9.708        **MINIMUM LOT REQUIREMENTS:** The lot requirements of the Parent District of which this district is made a part shall be the minimum yard lot requirements.
- 9.709        **MINIMUM YARD REQUIREMENTS:** The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements.
- 9.710        **MAXIMUM LOT COVERAGE:** The lot coverage requirements of the Parent District of which this district is made a part shall be the maximum lot coverage requirements.
- 9.711        **MAXIMUM HEIGHT:** The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements.
- 9.712        **SIGN REGULATIONS:** The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Council.

# MAP "A"

CITY OF GERING  
WELLHEAD ENCROACHMENT AREA



500' AREA ————  
1000' AREA ————

## ARTICLE 10: SUPPLEMENTARY DISTRICT REGULATIONS

### SECTION 10.1: VISIBILITY AT INTERSECTIONS

On a corner lot in all districts, except BCB, a sight triangle shall be provided such that nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection and nothing shall be erected, placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting street and alley between the lot line and curb line.

### SECTION 10.2 FENCES, WALLS AND HEDGES (Ord. 1628, 3/99)

Except as otherwise specifically provided in these regulations or in other codes and regulations, the following regulations shall apply to the construction of fences, walls and hedges:

- (1) No fences or walls shall be constructed on any lot within any zone within the City of Gering until a permit for the construction of said fence is first obtained from the proper authority as authorized by the City of Gering.
- (2) Fences in the required front yard or in the primary front yard of a corner lot in any residential zone may not be chain link or constructed of wire mesh, welded wire, or any other form of woven wire or stranded wire. (Ord. 1744, 10/03)
- (3) Fences or walls constructed within the required front yard or within the primary front yard of a corner lot side yard adjacent to a street of any residentially zoned property shall be decorative fences which shall include, but not be limited to: (Ord. 1744, 10/03)
  - a. split rail, pickets or slats: wood or PVC or components thereof
  - b. ornamental iron
  - c. decorative brick or block
- (4) The maximum height for any fence, wall or hedge or any part of a fence, wall or hedge, within the required front yard setback or within the primary or secondary front yard of a corner lot in all residential zones shall be forty-two (42) inches measured from the average grade of the ground, measured within eighteen (18) inches on either side of the fence, wall, or hedge. (Ord 1744, 10/03)
- (5) The maximum height for any fence, wall, or hedge, in any interior side yard, or rear yard is six (6) feet, measured from the average grade of the ground, measured within eighteen (18) inches on either side of the fence, wall or hedge.
- (6) Fences, walls and hedges in commercial zones or industrial zones may be constructed to a height of greater than six (6) feet but no more than eight (8) feet, except where the commercial

or industrial zone abuts a residential zone. In a circumstance where a residential zone abuts a commercial or industrial zone, the regulations for residential zones shall apply for a fence, wall or hedge constructed between the commercial and/or industrial zone and the residential zone.

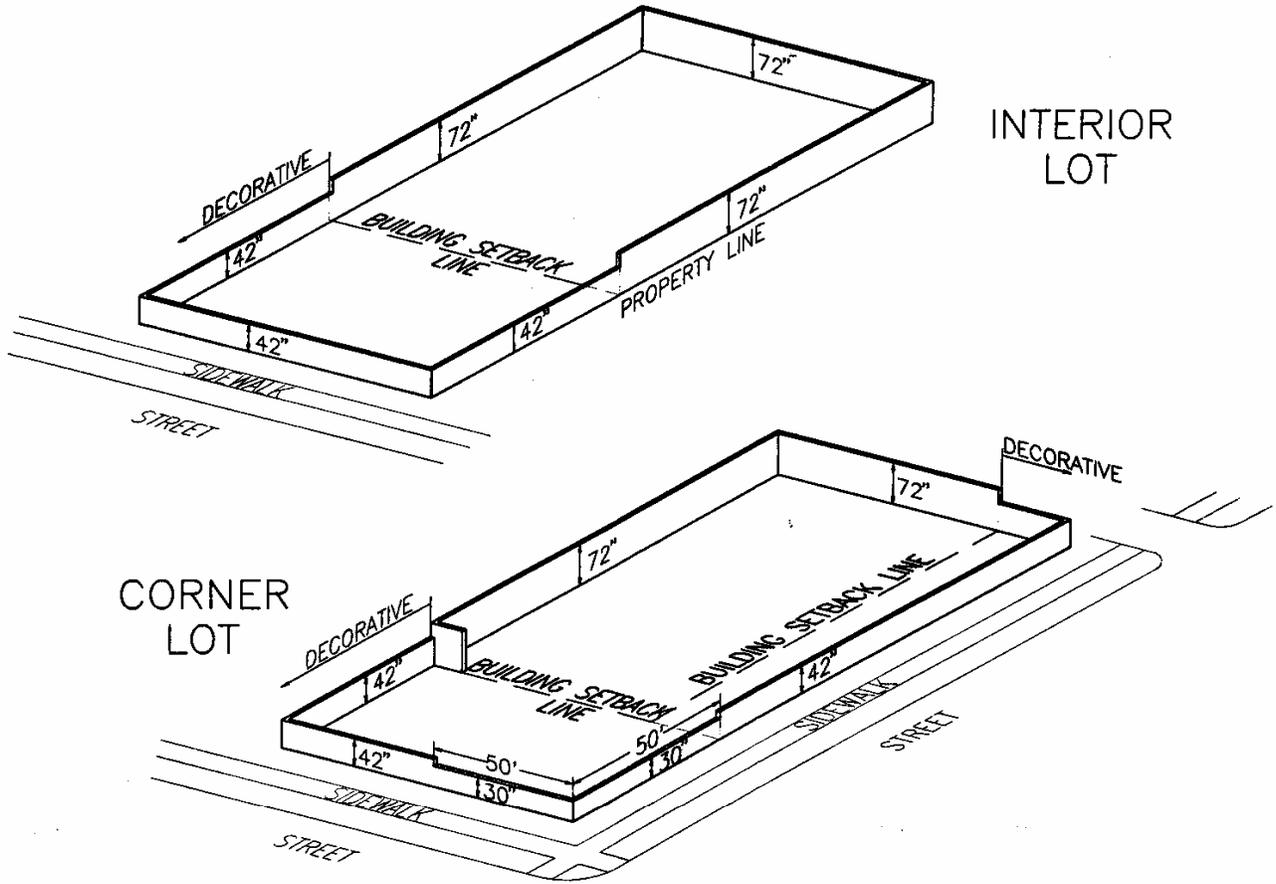
- (7) All fences and walls shall conform to the construction standards of the building code. No fences, walls or hedges are allowed in the public right of way.
- (8) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals or constitute a traffic hazard. In residential zones, all chain link or other wire fence fabric shall be installed with knuckled ends. Fences with barbed ends including barbed wire shall be prohibited in residential zones. (Ord. 1744, 10/03)
- (9) No barbed wire, other sharp pointed, or electrically charged fence may be constructed or maintained. (Ord. 1758, 5/04)
- (10) The building inspector may order any dilapidated or dangerous fence to be removed or repaired. (Ord. 1758, 5/04)
- (11) Utility Conflicts/Requirements:
  - a. Fences, shrubs, hedges, trees shall not interfere with operation or maintenance of City utility services. No permanent foundations should be placed within four (4) feet of a water shut off.
  - b. Easy access is required for meter reading and/or remote reading devices shall be installed and paid for by the property owner when directed by the City Utility Department Head.
  - c. The property owner shall be responsible for fence, shrub, hedge and tree removal and/or replacement if the City notifies or has to remove such in the case of utility repairs or maintenance.  
(Ord. 1758, 5/04)
- (12) Drawing is incorporated into this Zoning Ordinance for reference. Section 10/1: Visibility at Intersections, is incorporated for corner lots. (Ord. 1758, 5/04).

# CITY OF GERING

## ORDINANCE #1628

### PERMITTED HEIGHTS OF FENCES, WALLS, AND HEDGES IN RESIDENTIAL ZONES

\*MAXIMUM HEIGHTS INDICATED



## SECTION 10.3: ACCESSORY USES

10.301 USE FOR DWELLING: Accessory buildings shall not be used for dwelling purposes unless specifically permitted.

10.302 HOME OCCUPATIONS (Ord. 1614, 10/98)

The intent of this section is to allow residents the opportunity to use their residence as a place to either produce or supplement their personal and family income, while protecting residential areas from adverse impacts associated with a home business, and to achieve and maintain an attractive and efficiently functioning community.

- (1) A home occupation shall not be conducted on any residential property unless the home occupation is registered with the Zoning Administrative Officer of the City of Gering or his or her designee. A “no-fee” registration shall be for an unlimited time period and shall continue to be effective until re-registration or cancellation occurs. A home occupation registration shall be canceled in the event of the cessation of the home occupation. In the event the nature and activities associated with the home occupation change or if a different home occupation than originally registered is conducted on the premises, the premises shall be re-registered. The Zoning Administrative Officer may cancel any registration upon determining that the home occupation is no longer being conducted on the premises. All registrations shall be made on forms provided by the Fire Division Prevention and Codes Bureau. Failure to register as provided in this section shall constitute an offense.
- (2) Applicants for a home occupation shall permit inspection of the premises, at a reasonable time, by the Zoning Administrative Officer of the City of Gering or his or her designee to determine compliance with these regulations.
- (3) There shall not be any alterations of the exterior of the principal residential building which changes its character as a residence.
- (4) A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:
  - a. The home occupation shall be accessory and incidental to the residential use of the property where it is conducted.
  - b. Home occupations shall not occupy more than forty-nine (49) percent of the total floor area of the main building; or, if located in an accessory building, shall not occupy more than ten (10) percent of the total lot area.
  - c. No outdoor storage of any equipment, machinery, parts, goods, materials or any other articles used in connection with the home occupation is allowed.
  - d. Any activities carried on outdoors in connection with the home occupation shall be screened from view.

- e. There shall be no sign other than one (1) non-illuminated, non-animated wall sign, not exceeding two (2) square feet in area, indicating only the name of the home occupation.
- f. The home occupation shall not involve the parking or storage of tractor trailers, semi-trucks or heavy equipment such as construction equipment used in a business.
- g. Commercial welding, vehicle body repair, vehicle painting, automobile mechanical repair or rebuilding or dismantling of vehicles are not allowed as home occupations.
- h. The number of persons engaged in such home occupation other than the family occupying such dwelling shall be limited to two.
- i. The home occupation shall not cause glare, noise or odors disturbing to residents of surrounding property or interference with television or radio reception.
- j. The home occupation shall not constitute a fire hazard or a nuisance to neighboring properties.
- k. Service oriented businesses where employees pick up vehicles and leave to work off premise must provide parking for said employees. No traffic shall be generated by such home occupation in greater volume than would normally be expected in the residential neighborhood, and any need for parking generated by the conduct of such occupation shall be off street parking and shall not be in the front yard of the residence. The number of extra parking spaces shall not exceed two (2).
- l. Day care centers may have permanent play equipment such as slides and swing sets located in the required side or rear yards. The placement of play equipment in the required front yard of a day care center shall be permitted only by resolution of the City Council. All day care centers must comply with all state statutes and regulations pertaining to them.

10.303 FIRE HAZARDOUS ACCESSORY USES: No accessory use shall be located within five (5) feet of a residential dwelling that creates a fire hazard or would subject the residential structure to a potential fire, such as a detached fireplace, barbecue ovens, flammable liquid storage, etc.

#### SECTION 10.4: ACCESSORY BUILDINGS

10.401 SIDE YARD REQUIREMENTS: Same as district in which accessory use is located except an accessory building may be located in the side yard as close as three (3) feet to the property line providing it is located between the rear building line of the principal building and the rear property line.

10.402 FRONT YARD REQUIREMENTS: No accessory building shall be located between the front building line of the principal building and the front property line.

- 10.403 REAR YARD REQUIREMENTS: Unless specifically permitted, no accessory building shall be located closer than three (3) feet from the rear property line, and no accessory building shall be located within any easement or right-of-way along the rear property line.
- 10.404 VEHICLE ACCESS: Unless otherwise specifically permitted, any accessory building requiring vehicle access from an alley way shall be located a minimum of five (5) feet from the rear property line.
- 10.405 ATTACHED ACCESSORY USE: An accessory structure attached to the principal building shall be considered as a part of the principal building and shall meet the same requirements as specified for the principal building in said district.

#### SECTION 10.5: ARCHITECTURAL PROJECTIONS

Architectural projections including roofs which cover porches shall not extend more than five (5) feet into any required front or rear yard setback. Architectural projections including roofs shall not extend into any side yard setback requirements. Any porches enclosed with screen windows, permanent construction or porches extending greater than five (5) feet into the front or rear yard shall be considered as a part of the principal structure and meet the requirements of the principal structure. (Ord. 1758, 5/04)

**EXCEPTION:** Open porches, decks, platforms, or terraces not over three (3) feet above the average level of the adjoining ground may extend not more than eight (8) feet into the required front yard. This exception shall not apply to any front yard setback on a corner lot that is less than the distance of the full front yard setback established in the zoning district. Any safety railing required by the building code shall not exceed the minimum height required by such building code and shall be at least fifty-percent open to the passage of air and light. (Ord 1709, 4/02)

#### SECTION 10.6: ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

In commercial and industrial districts, more than one structure housing a permitted or permissible use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

#### SECTION 10.7: EXCEPTIONS TO HEIGHT REGULATIONS

The height limitations contained in this Ordinance 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.

#### SECTION 10.8: STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved with the exception of non-residential agricultural related structures in an agricultural zones district, shall be on a lot adjacent to a public or approved private street and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

Z-90

#### SECTION 10.9: TEMPORARY STRUCTURES

Temporary structures incidental to construction work, but only for the period of such work, are permitted in all districts.

#### SECTION 10.10: CARETAKER’S QUARTERS

Caretaker’s quarters are permitted in all districts, if included in the principal structure, providing said use is incidental to the principal use.

#### SECTION 10.11: ADJUSTMENTS TO FRONT YARD REQUIREMENTS

The front yards heretofore established shall be adjusted in the following cases:

- (1) Where thirty (30) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have observed, with a variation of five (5) feet or less, a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.
- (2) Where thirty (30) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have not observed a front yard as described above, then:
  - a. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on the two (2) sides, or
  - b. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one (1) side only, such building may be erected as close to the street as the existing adjacent building.

#### SECTION 10.12: PARKING REGULATIONS

- 10.1201      **PARKING, STORAGE, OR USE OF MAJOR RECREATIONAL EQUIPMENT:** No major recreational equipment as defined in SECTION 3.301 shall be parked or stored on any lot in a Residential District except in a carport, an enclosed building, or in a rear yard, or on a concrete surface, driveway, or prepared rock surface. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use. (Ord. 1762, 6/04)
- 10.1202      **PARKING AND STORAGE OF CERTAIN VEHICLES:** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any Residential District other than in completely enclosed buildings.

10.1203

**MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS:** Off-street motor vehicle parking and loading space shall be provided on any lot on which any of the indicated structures and uses are hereafter established. Such space as defined in SECTION 3.301 of this Ordinance shall be provided with vehicular access to a street or an alley. A required loading space shall include a ten (10) foot by fifty (50) foot space with a minimum of fourteen (14) feet of height clearance. The loading space shall be so located as to avoid undue interference with public use of streets, alleys and avoid undue interference with public use of streets, alleys and walkways. Minimum off-street parking and loading requirements, which shall be applicable in all zoning districts to the structures and uses indicated, shall be set forth in the Schedule of Minimum Off-Street Parking and Loading Requirements. If minimum off-street parking required in said schedule cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the City Board of Zoning Adjustment, the Board may permit such space to be provided on other off-street property, provided that such space lies within four hundred (400) feet of the entrance to such principal structure or use.

## SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

<u>Structures and Uses</u>	<u>Minimum Off-Street Parking Regulations</u>	<u>Minimum Off-Street Loading Requirements</u>
Bowling Alleys	4 Spaces per alley	1 Space per establishment
Churches, Synagogues and Temples	1 Space per 4 seats in main unit of worship	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 Spaces per establishment
Educational Uses, All Other	Parking spaces equal to 40% of capacity in students	2 Spaces per structure
Funeral Homes and Chapels	8 Spaces per reposeing room	2 Spaces per establishment
Hospitals	1 Space per 2 beds	3 Spaces per structure
Hotels	1 Space per 2 rental units	1 Space per establishment
Industrial Uses	1 Space per 2 employees on shift	2 Spaces per establishment largest
Libraries	1 Space per 500 sq. ft. on floor area	1 Space per structure
Lodging and Boarding Houses	1 Space per 2 rental units	None required
Medical Clinics	5 Spaces per staff doctor or dentist	None required
Mobile Home Park	2 Spaces per dwelling unit	None required
Motels	1 Space per rental unit	None required

<u>Structures and Uses</u>	<u>Minimum Off-Street Parking Regulations</u>	<u>Minimum Off-Street Loading Requirements</u>
Private Clubs and Lodges	1 Space per 500 sq. ft. of floor area	1 Space per establishment
Residential Structures (multi-family)	2 Spaces per dwelling unit	None required
Residential Structures (multi-family) (low income elderly housing) (Ord. 1443, 1-28-91)	1 Space per dwelling unit	None required
Residential Structures (single-family)	1 Space per dwelling unit	None required
Retail Sales Establishments	1 Space per 200 sq. ft. of gross floor area	1 Space per establishment
Roadside stands	4 Spaces per establishment	None required
Sanitariums, Convalescent, and Rest Home Services	1 Space per 3 beds, plus 1 Space per employee	1 Space per establishment
Service Establishments	1 Space per 200 sq. ft. gross floor area	1 Space per establishment
Theaters, Auditoriums, and Places of Assembly	1 Space per 5 people in designed capacity	1 Space per establishment
Veterinary Establishments	3 Spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 Space per 2 employees on largest staff	2 Spaces per establishment

## SECTION 10.13: MOBILE HOME REGULATIONS

- 10.1301           **MOBILE HOMES:** Notwithstanding the provisions of the district regulations of this Ordinance, no mobile home shall be parked and occupied in any district outside an approved mobile home park for more than forty-eight (48) hours, except upon a special permit issued by the Zoning Administrator. Such permit shall be issued for a period not to exceed thirty (30) days and shall not be renewable within the same calendar year. Provided, however, a permit may be issued for parking and occupying a mobile home on land owned by the owner of said mobile home during the construction of a house thereon, during the repair or reconstruction of any residence thereon as a result of damages suffered by explosion, fire, earthquake, wind or other natural disasters or manmade disasters, or during a period of illness or physical disability necessitating special facilities for care of the occupant or for the purposes of providing security for the property on a temporary basis, or for any cause created by conditions pertaining to the police, health or welfare of the community generally, such permit to be issued for a period not exceeding one hundred eighty (180) days, and which shall be renewable for an additional period not exceeding one hundred eighty (180) days. However, if said condition shall not occur within forty-five (45) days from the issuance of the permit or if material progress in house construction is not made within forty-five (45) days from the issuance of a permit, or if said condition ceases or construction work on the property ceases for a consecutive period of forty-five (45) days, said permit shall terminate and become void. If the mobile home is being parked on the site waiting to be placed on and connected to a permanent foundation, the mobile home owner does not originally need a permit. After thirty (30) days, if the mobile home has not been placed on and connected to a permanent foundation, a permit must be acquired in accordance with this section. This section shall not apply to single family mobile homes used as a dwelling units for agricultural related purposes or located on a permanent foundation. (Ord. 1320, 3/85)
- 10.1302           **MOBILE HOME PARKS:** A mobile home park may be established in specified zoning districts according to the procedures for granting exceptions, provided that the proposed mobile home park meets all of the following requirements:
- (1)           Certification of compliance with all ordinances and regulations regarding mobile home park licensing, and zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations shall be a prior requirement for granting said exception.
  - (2)           Individual mobile home lots shall have an area of not less than five thousand (5,000) square feet for single wide mobile homes and six thousand (6,000) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed six (6).
  - (3)           Planting of trees and shrubs is required to the extent needed to provide for: (a) screening of objectionable views; (b) adequate shade; (c) a suitable setting for the mobile homes in the park as well as neighboring uses.

- (4) A minimum of twenty-five (25) feet measured from any entrance, lean-to or other extension from said mobile home shall be maintained between mobile homes.
- (5) A mobile home park shall have an area of not less than two (2) acres or more than ten (10) acres and no mobile home parking or office or service building shall be closer to a street right-of-way or other property line than twenty-five (25) feet.
- (6) A request for an exception shall set forth the location and legal description of the proposed mobile home parking property, and a sketch of the proposed mobile home park, showing dimensions, driveways, proposed locations of mobile homes, the location of sanitary, conveniences and other buildings and improvements.
- (7) The area of the mobile home or trailer stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home or trailer, thereby securing the super-structure against uplift, sliding, rotation or overturning. The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" minimum) placed on solid uniform soil with at least two standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4" concrete cap covering the two concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such blocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than ten (10) feet apart, and not more than five (5) feet from the ends of the unit.
- (8) The mobile home or trailer stand shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men", eyelets embedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designed to resist the action of frost in the same manner as the foundation.
- (9) The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility risers if they are located within the skirted area.
- (10) Licensing of Mobile Home Parks shall be complete in accord with Section 5-4-2 and 5-4-3 of the Gering City Code.

## SECTION 10.14: CAMPGROUNDS

A campground may be established in specified districts according to the procedures for granting an exception, provided that the proposed campground meets all the following requirements:

- (1) A campground shall have an area of not less than one (1) acre, nor more than five (5) acres, and no camping unit or service structure shall be closer to a street/road/highway right-of-way or other property line than twenty-five (25) feet;
- (2) A campground shall provide minimum facilities including central travel trailer sanitary and water stations, toilets and refuse containers;
- (3) Certification of compliance with all ordinances and regulations regarding zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations shall be prior requirements for granting said exception;
- (4) Individual camping units, other than tents, shall have a lot area of not less than seven hundred fifty (750) square feet and the total number of units per gross acre shall not exceed twenty (20);
- (5) Individual tent camping units shall be located in separate areas designated for tent camping;
- (6) The layout of the campground shall be such that "destruction" of the natural vegetation and topography of the area is minimized;
- (7) A request for an exception shall set forth the location and legal description of the proposed campground property and a sketch of the proposed campground showing dimensions, roads, parking stations, location of services and any other buildings or improvements.

## SECTION 10.15: SIGN REGULATIONS

- 10.1501 ON AND OFF-SITE SIGNS ON INTERSTATE OR FEDERAL PRIMARY HIGHWAYS: The erection or maintenance of any advertising sign, display, or device which is visible to the traveled way of the National System of Interstate and Defense Highways, and the System of Federal-Aid Primary roads of the State of Nebraska as defined by the Nebraska Department of Roads, is hereby prohibited unless in compliance with regulations set forth within the Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid and Primary Highways; as amended, adopted and published by the Nebraska Department of Roads and made a part of these zoning regulations by reference, except there is specifically prohibited the construction of any off-site advertising signs, displays or devices in the area bounded by the Highway 71 By-Pass and the west boundary of the zoning jurisdiction of the City of Gering, Nebraska between Highway 92 (M Street) on the South and Country Club Road on the North. Said prohibition shall apply notwithstanding compliance with regulations set forth as amended, adopted and published by the Nebraska Department of Roads. (Ord. 1731, 7/03)

10.1502            ON-SITE SIGNS: On-site signs not on Interstate or Federal Aid-Primary highways, and erected as an on-site sign in those districts where such is permitted, shall conform to the following requirements:

- (1)            The maximum surface area of all sides of all signs shall not exceed three (3) square feet per lineal foot front footage of the lot upon which said signs are located.
- (2)            All signs provided for in this Section, except free standing or pole signs must be mounted flush against the building.
- (3)            The highest point of any free standing or pole sign provided for in this Section shall not extend more than thirty (30) feet, measured from ground level at its supports; except that the highest point of any on-site sign in the area bounded by the Highway 71 By-Pass and the west boundary of the zoning jurisdiction of the City of Gering, Nebraska between Highway 92 (M Street) on the South and Country Club Road on the North shall not extend more than fifteen (15) feet, measured from ground level at its supports. (Ord. 1731, 7/03)
- (4)            All free standing and pole signs shall be located in an area from the street right-of-way to a point fifteen (15) feet beyond the right-of-way. (Ord. 1345, 3/86)

10.1503            OFF-SITE SIGNS: Off-site signs not on Interstate or Federal Aid-Primary highways, erected in those districts where permitted, shall conform to the following requirements:

- (1)            Each sign shall have a maximum surface area of eighty (80) square feet;
- (2)            The highest point of any sign shall not extend more than twenty (20) feet measured from ground level at its supports;
- (3)            Each sign shall be no less than one hundred (100) feet from any other sign erected on the same side of a street from which the signs are intended to be read;
- (4)            Each sign shall not be closer than fifty (50) feet from a street intersection at grade;
- (5)            Each sign shall be located in an area from the street or road right-of-way to a point fifteen (15) feet beyond the right-of-way.
- (6)            Each sign permitted under the Nebraska Department of Roads Rules and Regulations of Specific Information Business (Logo) Signs may be erected and maintained within the City right-of-way. The rules and regulations were set forth to adopt requirements of Nebraska Revised Statutes 39-634.01 and 39-634.02 and the federal requirements regulating specific information and business (logo) signs. (Ord. 1424, 4/90)

10.1504            HOME OCCUPATION SIGNS: A Home Occupation sign shall not exceed two (2) square feet in area, be non-illuminated, non-animated and mounted flat against the wall of the principal building.

- 10.1505      **CENTRAL BUSINESS DISTRICT:** All signs proposed for the BCB Central Business District shall comply with the following regulations. A detailed design sketch of the proposed sign, including information indicating the proposed material, color, lighting, size and placement of such sign, shall be submitted to the Zoning Administrator. The Zoning Administrator shall either approve or disapprove said application within five (5) business days of its original submission. Not until such approval is received shall a building permit for such sign be issued. Once such permit is issued, such sign shall be constructed in accordance with submitted plans as amended and approved by the City. All signs shall comply with the following requirements:
- (1) All signs excluding free standing and pole signs shall be attached to buildings, flush against building wall and not to be overhanging.
  - (2) The gross area of all sides of all signs on a single business shall not exceed three (3) square feet for each lineal front street foot (where on corner lots only the footage along the front of a building shall be used for this calculation) or 300 square feet, whichever number is smaller and shall not exceed the top of the building, except signs on single story buildings may exceed the height of the top of the building, but shall remain attached flush to the top of the building and not exceed twenty (20) feet in height from mean curb level. (Ord. 1315, 12/84)
  - (3) The major identification sign of a building shall be generally located immediately above the entrance or awning on a building. Signs not placed above entrance will be handled on a case by case basis.
  - (4) Minor signs may be printed on an awning or canopy or may be located beneath an awning or canopy if such sign is at least seven (7) feet above the ground level and does not exceed an area of six (6) square feet per side.
  - (5) No moving or flashing signs are permitted other than for the display of the time, temperature, and public or private messages.
  - (6) Murals are permitted if provisions are made for their maintenance and said murals do not advertise a particular business and if they comply with the sign size requirements of this section.
  - (7) Free standing and pole signs are not to extend over  $\frac{2}{3}$  of the public right-of-way adjacent to property line. (This is interpreted as  $\frac{2}{3}$  of the public right-of-way left after deducting the street to the curb line.)
  - (8) Projecting signs other than those hanging beneath awnings are prohibited.
  - (9) Temporary signs placed within windows to advertise a particular product or sale for a period not to exceed three (3) months and which do not flash or move shall be exempt from all of these regulations.
  - (10) All signs may not exceed twenty (20) feet in height, from mean curb level.

(11) No trailer mounted or portable signs are allowed.

10.1506 SIGN REGULATIONS, EXEMPT SIGNS: The following types or categories of signs are exempt from the permit provisions of these regulations but shall comply with the general rules pertaining to traffic hazards, intersection vision, right of way placement or other provisions which may pertain to the public welfare and safety. (Ord. 1731, 7/03)

- (1) Directional or instructional signs which provide direction or instruction to guide persons to public facilities but contain no commercial advertising.
- (2) Governmental signs for control of traffic and other regulatory purposes and signs of public service companies indicating danger and aids to service or safety.
- (3) Holiday decorations or signs temporarily displayed on traditionally accepted civic, patriotic or religious holidays, providing such sign shall be removed within a reasonable time after the holiday, but not exceeding thirty (30) days.
- (4) Public notice signs required by governmental bodies authorized for a specific public purpose by any law or ordinance and posted by public officers or employees in their line of duty.
- (5) Temporary real estate signs advertising the sale, lease or rent of the premises upon which the sign is posted. The area of such signs shall be limited to sixteen (16) square feet per sign face with a maximum of two (2) sign faces. Only one (1) sign per lot frontage shall be permitted. Temporary real estate signs may be in place until the property sale is finalized.

One (1) sign not more than eighty (80) square feet in area and fifteen (15) in height announcing the sale of lots and/or houses in a subdivision may be located on said development. Said sign shall be removed when seventy-five (75) percent of the lots have been sold, whichever is sooner.

- (6) One (1) sign not more than eighty (80) square feet in area and fifteen (15) in height advertising a site under construction in a commercial or industrial zone may be located on said site until construction is completed, whichever is sooner.
- (7) Temporary event signs promoting an event or occurrence which is expected to end within a relatively short amount of time, shall be allowed in the commercial and industrial zones provided that said signs are placed no sooner than two (2) weeks prior to the event or occurrence and are removed no more than five (5) days following the event or occurrence. Said signs shall follow the same area, height, and setback requirements for off-site signs as set forth in Section 10.1503.
- (8) Temporary political signs announcing political candidates seeking public office, political parties, and or political issues contained on a ballot for an election may be located only on private property, not sooner than eight (8) week prior to a primary or general election, and shall be removed no more than five (5) days following the election.

10.1507. SUBDIVISION ENTRY SIGNS: Application for a subdivision entry sign shall be subject to the review of the Planning Commission and approval of the City Council. Said

application shall include a site plan, construction drawings, landscape plan, and a maintenance plan and any other information deemed necessary by the Planning Commission or City Council. (Ord. 1731, 7/03)

## SECTION 10.16: PERFORMANCE STANDARDS FOR INDUSTRIAL USES

These performance standards shall apply as minimum standards in those districts where compliance with said standard is required.

10.1601 LIMITED INDUSTRIAL PERFORMANCE STANDARDS: To be a permitted industrial use in ML Industrial and Manufacturing District, whether as a permitted use or as an exception, such use must meet the following performance standards:

- (1) Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street.
- (2) Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazard. This provision shall not be constructed to prohibit the use of normal heating fuels, motor fuels and welding gases when handled in accordance with other City regulations.
- (3) Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
- (4) Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course on the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- (5) Air Contaminants: Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one (1) four (4) minute period in each one-half (½) hour. Light colored contaminants of such an opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit, except for a period of four (4) minutes in any one-half (½) hour, at which time it may equal but not exceed six-tenths (.6) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.

Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.

- (6) Odor: The omissions of odors that are generally agreed to be obnoxious to any considerable number of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
- (7) Gases: The gases sulphur dioxide, hydrogen sulphide and carbon monoxide shall not exceed five (5) parts per million. All nitrous fumes shall not exceed one (1) part per million. Measurements shall be taken at the property line of the particular establishment involved.
- (8) Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (3/1,000) of an inch measured at the property line. The use of steam or broad hammers shall not be permitted.
- (9) Glare and Heat: All glare, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the property line. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

10.1602            **INDUSTRIAL PERFORMANCE STANDARDS:** To be a permitted industrial use in the MH Industrial and Manufacturing District, whether as a permitted use or as an exception, such use must meet the following performance standards:

- (1) Physical Appearance: Junk, salvage, auto wrecking and similar operations shall be shielded from view from streets and from adjacent properties in another district by means of a sturdy, sight-obscuring fence in good repair, or two rows of alternate planted evergreen trees.
- (2) Fire Hazard: All flammable substances involved in any activity established in the district shall be handled in conformance with the latest edition of the Fire Prevention Code published by the American Insurance Association and other City Ordinances.
- (3) Noise: All noises and noise causing activities shall be muffled so that they will not create a disturbance greater than normal peak hour traffic noise of a major street when observed from any area in a Residential District. Major street noise for comparison purposes shall be measured at the property line.

- (4) Sewage and Liquid Waste: No operations shall be carried on which involves the discharge into a sewer, water course or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- (5) Air Contaminants: Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number Two shall be permitted for an aggregate ten (10) minute period in each one-half (½) hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (.2) grains per cubic foot as corrected to a temperature of five hundred degrees (500 ) Fahrenheit, except for a period of four (4) minutes in any one-half (½) hour, at which time it may equal but not exceed six-tenths (.6) grains per cubic foot as correct to a temperature of five hundred degrees (500 ) Fahrenheit.

Due to the fact that the possibilities of air contamination cannot be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.

- (6) Odor: Odor causing operations shall be controlled so as to reduce escape of odors to the minimum practical within the limits of technology and economics.
- (7) Gases: All noxious gases shall be controlled to the extent that they will not be injurious to life and property. The gases sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed twenty-five (25) parts per million, and nitrous fumes shall not exceed five (5) parts per million.
- (8) Vibration: All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

#### SECTION 10.17: SATELLITE EARTH STATION

- (1) DEFINITION: A Satellite Earth Station is an apparatus capable of receiving communications from a transmitter or transmitter relay located in planetary orbit.
- (2) SATELLITE SIGNAL; USABLE: A satellite signal, usable is a signal which is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

- (3) **STANDARD CODES; COMPLIANCE:** All satellite earth stations and the construction and installation thereof shall conform to all applicable provisions of the Basic National Building Code, the Basic National One and Two Family Dwelling Code and the National Electrical Code, being standard codes which have been adopted in the City of Gering, Nebraska.
- (4) **SATELLITE EARTH STATION; OTHER SPECIFICATIONS:** All satellite earth stations shall be constructed of non-combustible and corrosive resistant material, meet all manufacturer's specifications concerning installation, and be erected in a secure, wind-resistant manner.
- (5) **SAME; MODIFICATION; PERMIT:** No structural or electrical modifications may be made to any satellite dish without a building permit approved by the Building Inspector of the City of Gering, Nebraska.
- (6) **SATELLITE EARTH STATION; LOCATION; SETBACKS; AGG, RRE, BNC, BCB, BHC, ML AND MH ZONES:** In any AGG, RRE, BNC, BHC, ML and MH Zoning Districts a satellite earth station may be located anywhere on a lot or tract of land; provided, the locations shall comply with all setback requirements of the zone in which the station will be located and, if a location will be a commercial or industrial zone which abuts a residential zone, the station shall be set back not less than ten (10) feet from any boundary with the residential zone and shall be effectively screened from view from any property in the residential zone by a solid fence, wall or hedge on the property on which the station will be located.
- (7) **SATELLITE EARTH STATION; LOCATION; SETBACK; RL, RM, RML, RMH ZONES:** In any RL, RM, RML, RMH Zoning Districts a satellite earth station may be located only in the rear yard of a lot or tract, shall be set back from every lot or tract line not less than three (3) feet, and shall be located not less than five (5) feet distant from any part of a residential building (including an attached garage). Provided, if a usable satellite signal cannot be obtained as determined by the Zoning Administrator of the City of Gering from the rear yard, the station may be placed upon the roof of the dwelling if the height of the station in such location does not exceed any height restriction contained in this Section.
- (8) **SATELLITE EARTH STATION; NUMBER; EXCEPTION; PERMIT:** No more than one satellite station may be installed on a lot or tract of land in AGG, RRE, RL, RM, RML and RMH Zones, or on two or more lots or tracts of land in such zone which are occupied or used in common; providing, the Planning Commission may issue a special permit for installation of one or more additional such stations in a planned unit development if the Commission shall determine that technological considerations including, but not necessarily limited to, the adequacy of signals received reasonably require use of an additional station or stations.
- (9) **SATELLITE EARTH STATION; HEIGHT; EXCEPTIONS:** No satellite earth station, including the platform or structure upon which it is mounted shall exceed in height the following restrictions or restrictions upon the height of structures generally in the zone, whichever is more restrictive.

- a. In any AGG, RRE, BNC, BCB, BHC, ML and MH zoning district; eighteen (18) feet for free standing satellite dish and shall not exceed the building maximum height of the zoning district if the satellite dish is mounted on the building, same shall apply for the free standing and mounted satellites in the RL, RM, RML and RMH zoning districts.

Provided, the foregoing restrictions in this Section shall not apply to a commercial or public satellite earth station that is a part of, or mounted on, a communication tower.

- (10) **SATELLITE EARTH STATION; COLOR; APPEARANCE, CHARACTER:** All satellite earth stations shall be neutral in color and, to the extent reasonably possible, as determined by the Zoning Administrator, shall be compatible with the surrounding neighborhood in appearance and character.
- (11) **RESIDENCES SERVED; NUMBER:** In any residential zone, except in the case of a planned unit development or an apartment complex under one ownership, a satellite earth station may serve only one residence.
- (12) **ADVERTISING:** No form of advertising shall be placed on any part of a satellite earth station, except a manufacturer's identification plate, except in the case of a station operated by a television or radio station, the call letters or number of the latter station.
- (13) **VIOLATIONS; PENALTIES:** Any person, firm or corporation who shall violate or fail to comply with any provision of this Section, including the standard codes to which reference is made, or shall violate or fail to comply with any lawful permit, order or notice made or given thereunder, shall be fined in any sum not to exceed \$100.00 for each offense, and shall pay the costs of prosecution. Each day that a violation of non-compliance shall continue after notification by the Zoning Administrator shall constitute a separate offense. (Ord. 1334, 10/85)

SECTION 10.18: WIND ENERGY CONVERSION SYSTEMS

- 10.1801 FINDINGS, CITY COUNCIL: It is found and declared that:
- (1) Wind energy is an abundant, renewable and nonpolluting energy source, and its conversion to electricity will reduce dependence on nonrenewable energy sources and decrease air and water pollution which may result from use of conventional energy,
  - (2) Wind turbines which convert wind energy to electricity are currently available on a commercial basis from many manufactures, and
  - (3) The generation of electricity by properly sited wind turbines can be cost effective, and in many instances existing power distribution systems can be used to transmit electricity from wind generating stations to utilities or other users.
- 10.1802 ARTICLE; PURPOSE: The purpose of this Article is to regulate the occupancy and use of lands by wind energy conversion systems for protection of the public health, safety and general welfare -- including, but not limited to, that of owners and occupants of adjacent lands -- in a matter that will facilitate the effective and efficient use of such systems.
- 10.1803 DEFINITION: The term "wind energy conversion system" means a machine that converts kinetic energy in wind into a different, usable form of energy, including a machine commonly known as a wind turbine or windmill. Unless the context clearly indicated otherwise, the term refers to all components of such a system, including, but not limited to, the tower and transmission equipment. For convenience, the term usually is abbreviated "WECS".
- 10.1804 HEIGHTS: The total height of a WECS shall not exceed eighty feet (80'), or the maximum height permitted by regulations of the State or the Federal Government, whichever is lesser. The minimum distance of any blade above the ground shall be fifteen feet (15'); PROVIDED, if there shall exist within a two hundred fifty feet (250') radius of the center point of the tower any building, structure (not including electrical transmission or distribution lines, antennas, slender or open lattice towers or open fences) or tree in excess of thirty-five feet (35') in height, the minimum distance of any blade above the ground shall be the greater of:
- (a) the sum of thirty feet (30') and the height, in feet, of the tallest of such building(s), structure(s), trees(s), or
  - (b) such distance above the ground as the manufacturer shall recommend to assure sufficient air flow for adequate operation of the WECS.

- 10.1805        **SETBACK:** The tower support base of the WECS shall be located a distance from the boundary lines of the lot or tract of land, and from all aboveground utility lines, that is not less than one and one-fourth ( $1 \frac{1}{4}$ ) times the total height of the WECS.
- 10.1806        **SPECIAL PERMIT:** The Planning Commission may issue a special permit authorizing the erection, maintenance and operation of WECS in any zone, the modifying as to such system, and as provided in this Article, zoning regulations pertaining to height setback and other provisions which otherwise would apply to the system, if the Commission determines that the requirements of this Section 16, and of Article 13 of this Title, have been met.
- 10.1807        **SAME; APPLICATION:** An application for a special permit to erect, maintain and operate a WECS shall comply with the requirements of Article 13 of this Title and, in addition, shall include the following information:
- (1) Address and telephone number of the owner of the lot or tract of land and, if the WECS is to be erected, maintained or operated by some other person, the name, address and telephone number of such other person.
  - (2) A plot plan and development plan drawn in sufficient scale and detail to clearly describe:
    - (a) The property lines and physical dimensions of the proposed site, including all public streets and alleys abutting the site.
    - (b) The location and total height of the WECS.
    - (c) The location, dimensions and types of all major existing structures and uses of the site.
    - (d) The location of all aboveground utility lines and other WECS's on the site or within a radius from the center of the tower which is equal to one and one half ( $1 \frac{1}{2}$ ) times the total height of the proposed WECS.
    - (e) The location and size of all buildings, structures and trees exceeding thirty-five feet (35') in height within a five hundred (500) foot radius of the proposed WECS (for purposes of this requirement, electrical transmission and distribution lines, antennas, slender or open-lattice towers and open fences are not considered structures).
    - (f) Where applicable, the location of all transmission facilities proposed for installation.
    - (g) Where applicable, the location of all road and other service structures proposed as part of the installation, and

- (h) The zoning districts within which are situated the lot or tract of land and adjacent lots and tracts of land.

There also shall be submitted with the application a copy of the proposed policy of liability insurance which will comply with the requirements of Title IV, Chapter 2, Section 56 of this Code.

If the WECS is to be erected, maintained or operated by a person other than the owner of the lot or tract of land, the application shall be signed, also, by such other person.

- 10.1808 SAME; ARTICLE 13 REQUIREMENTS: All of the other requirements and provisions of Article 13 of this Chapter concerning proceedings on applications for a special permit, the terms of such a permit, the issuance of building permits and certificates of occupancy, and the transfer of special permits shall apply to a special permit issued under this Article.
- 10.1809 SAME; FINDINGS; COMMISSION; ADDITIONAL: The Planning Commission may approve a special permit for a WECS if it finds, in addition to the findings required by Article 13 of this Code, that the proposed use will not be detrimental to the public health, safety and general welfare.
- 10.1810 ABANDONMENT: A WECS shall be deemed abandoned if not in continuous use, except during maintenance and repair or during the temporary absence of the operator. If the Building Inspector shall determine that a WECS has been abandoned within the meaning of this section, he shall cause to be delivered or mailed to the owner of the lot or tract of land and, if the WECS was in the possession of or operated by some other person, to such other person, a written notice of such determination and that the WECS, including the tower, shall be removed within thirty (30) days after delivery or mailing of the notice. If the notice is mailed, it shall be addressed to the person being notified at the latter's last known residence address. (Ord. 1383, 3/88)

#### SECTION 10.19: LANDSCAPING AND SCREENING STANDARDS

- 10.1901 PURPOSE: The Landscaping and Screening Regulations provide additional guidance on the development of sites within Gering by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land uses from one another; and conserve the value of properties within the City of Gering and more particularly along the expressway corridor.
- 10.1902 APPLICABILITY: The provisions of this section shall apply to all new development on each lot or site upon application for a building permit.
- 10.1903 LANDSCAPING REQUIREMENTS: Landscaping shall be required adjacent to each street property line as set forth in Table 10.19.1.

10.1904 LANDSCAPING MATERIALS AND INSTALLATION STANDARDS

- (1) Official List of Plant Materials: All plant material installed in landscaped areas or bufferyards shall be consistent with the Official List of Plant Materials provided by the Gering Parks, Cemetery and Tree Board through the office of the Zoning Administrator. All plant materials shall conform in size, species and spacing with this section of the regulations.
- (2) Use of Inorganic Landscaping Materials: No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than 25% of the minimum required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than 5 feet in width.

**Table 10.19.1: Required Landscape Depth**

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Zoning District	Depth of Landscaping Adjacent to Street Property Line Including Expressway
BTS	25 feet
BXC	25 feet
BEC	25 feet
ML	25 feet
MH	25 feet
RRE	25 feet

10.1905 **BUFFERYARD PROVISIONS:** These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 10.19.2. Bufferyards are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

- (1) The bufferyard dimensions set forth in Table 10.19.2 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.

**Table 10.19.2: Bufferyard Requirements (Feet)**

	DISTRICT A More Intensive District (Note 3)	DISTRICT B (Less Intensive Adjacent District)					
		ML	AGG	RRE	RL	RM	BHC
			(Note 1)	(Note 1)	(Note 1)		
	BTS	25'	25'	25'	25'	---	---
	BXC	25'	25'	25'	25'	---	---
	BEC	25'	25'	25'	25'	---	---
	BHC	25'	25'	25'	25'	---	---
	ML	25'	25'	25'	25'	25'	---
	MH	25'	25'	25'	25'	25'	25'

Notes to Table 10.19.2:

- Note 1: Applies to residential uses previously established in the zoning district.
- Note 2: Vertical screening only is required as set forth in Section 10.1906.
- Note 3: Buffer requirements do not apply to single-family, duplex or townhouse residential uses established in District A.

- (2) When a street separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in Table 10.19.2.
- (3) Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

10.1906 SCREENING STANDARDS:

- (1) Application: Screening is required between adjacent zoning districts indicated in Table 10.19.2 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district.
  - (a) The rear elevation of buildings.
  - (b) Outdoor storage areas or storage tanks, unless otherwise screened.

- (c) Loading docks, refuse collection points, and other service areas.
  - (d) Major machinery or areas housing a manufacturing process.
  - (e) Major on-site traffic circulation areas or truck, trailer or equipment parking.
  - (f) Sources of glare, noise, or other environmental effects.
- (2) Opaque Barrier: A six foot opaque barrier shall be provided which visually screens the conditions listed in Section 10.1906(1) from less intensive uses as follows:
- (a) A solid wood, S2S lumber fence, and/or decorative, split-face or similar wall at least six feet in height.
  - (b) A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier which will be capable of providing a solid screen within three years of planting.
  - (c) A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.
  - (d) Any combination of these methods that achieves a cumulative height of six feet.
- (3) Location of Screening Wall: A screening wall or fence shall be installed within the required bufferyard.
- (4) Screening: Effect on Drainage: Screening shall not adversely affect surface water drainage.
- (5) Permitted Interruptions of Screening: Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed 20% of the length of the required screened area.
- (6) Alternative Screening Plans: When an opaque barrier is required between adjacent zoning districts, the Planning Commission or Building Inspector may approve alternative plans for the bufferyard requirement for small lots (less than one-half acre) of record and/or unique situations at the time of passage of this regulation (November 24, 2003). (Ord. 1748, 11/03)

When an alternate bufferyard requirement is proposed, the developer shall be required to plant an equal number of plantings or groups of plantings to meet the intention of the ordinance to improve the community appearance. (Ord. 1748, 11/03)

10.1907 TREE PLANTINGS: In any landscaped area required by the Minimum Depth Requirements, the Bufferyard Requirements, or the Parking Lot Interior Landscaping Requirements, one tree of an approved species listed on the Official List of Plant Materials shall be planted and maintained for each 500 square feet of required landscaped area. Existing trees approved for preservation shall be counted toward satisfaction of this requirement. All required deciduous trees shall have a minimum 1 ½” caliper. All required coniferous trees shall be at least four feet in height.

10.1908 GENERAL PROVISIONS

- (1) Time of Application: The provisions contained in this Article shall be applied for each individual lot or site when an application for a building permit on such lot is made.
- (2) Maintenance of Required Landscaping: Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. A written landscape maintenance plan is required.
- (3) Obstruction of View: Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk. See sight triangle for intersections.
- (4) Earth Berm Locations: All earth berm locations shall be reviewed by the Public Works Director, or his/her designee to determine how the berms shall relate to drainage and public utilities.
- (5) Exceptions: A development may continue to comply with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with bufferyard or screening provisions.
- (6) Performance Guarantee: A performance guarantee will be required in the event a certificate of occupancy is issued prior to installation of all required landscaping.
- (7) In-ground sprinkling systems are to be installed in all required landscape areas.
- (8) A written landscape maintenance plan is required upon building permit application.

## SECTION 11.1: INTENT

Within the zoning districts established by this Ordinance or amendments that may be adopted later there exists: (1) lots; (2) structures; (3) uses of land and structures; and (4) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or further amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by the Ordinance to be incompatible with permitted uses in the zoning districts involved. A non-conforming use of structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, or a nature which would be prohibited generally in the zoning district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

## SECTION 11.2: NON-CONFORMING LOTS OF RECORD

In any zoning district in which single-family structures are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements of the lot shall conform to the zoning regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the City Board of Zoning Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements

established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.

#### SECTION 11.3: NON-CONFORMING USES OF LAND WITH MINOR STRUCTURES ONLY

Where, at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the zoning regulations imposed by this Ordinance, and where such uses involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000), the use may be continued so long as it remains otherwise lawful, provided:

- (1) If any such non-conforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the zoning district in which such land is located.
- (2) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.
- (3) Provided, however, that no such non-conforming use shall be allowed to continue longer than for a period of five (5) years from the date of passage of this Ordinance. At the end of said five (5) year period, such non-conforming use of land or land with minor structures shall be terminated. Provided, however, all non-conforming junk yards shall be terminated, or otherwise made to conform to the provision of this Ordinance within two (2) years from the date of passage of this Ordinance.
- (4) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- (5) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

#### SECTION 11.4: NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- (2) Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with provision of this Ordinance.

- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4) Provided, however, that except for single-family and multi-family dwellings and their accessory uses, no non-conforming structure shall be allowed to continue longer than for a reasonable amortization period of the non-conforming structure. For the purposes of this section, a reasonable amortization period shall be defined as a period of thirty (30) years from the date of adoption of this Ordinance. Following the running of the amortization period, such non-conforming structure shall be removed or brought into conformance.
- (5) Provided, however, that no non-conforming mobile home structure which is not placed on a permanent foundation at the effective date of adoption or amendment of this ordinance shall be allowed to continue longer than for a reasonable amortization period of the non-conforming structure. No mobile non-conforming home structure which occupies a lot upon which there exists another principal structure shall be allowed to continue longer than for a reasonable amortization period of the non-conforming structure. For the purpose of this section, a reasonable amortization period shall be defined as a period of ten (10) years from the date of adoption of this Ordinance. Following the running of the amortization period, such non-conforming structure shall be removed or otherwise brought into conformance.
- (6) Nothing contained in this Ordinance shall prohibit a property owner from improving a single-family dwelling by an enlargement or alteration of the single-family dwelling so long as the enlargement or alteration thereto is in keeping as near as reasonably can be with the provisions contained in this Ordinance and provided such improvement receives the prior approval of the City Board of Zoning Adjustment. Provided further, that any single-family dwelling destroyed by any means, except voluntary destruction, to an extent of more than 50 percent of its current assessed value exclusive of foundations at the time of destruction, may be reconstructed by a property owner as a single-family dwelling provided such reconstruction meets the provisions of this Ordinance as near as reasonably can be and such reconstruction receives the prior approval of the City Board of Zoning Adjustment. (Ord. 1747, 10/03)

#### SECTION 11.5: NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION

If lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000), or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the zoning districts under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.

- (2) Any non-conforming use may be extended throughout any parts of a building or area which are manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building or area.
- (3) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as an exception, be changed to another non-conforming use provided that the City Planning Commission or the City Council either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zoning district than the existing non-conforming use. In permitting such change, the City Planning Commission or the City Council may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
- (4) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zoning district and the non-conforming use may not thereafter be resumed.
- (5) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months except when government action impedes access to the premises, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with regulations of the zoning district in which it is located.
- (6) Nothing contained in this Ordinance shall prohibit a property owner from improving a single-family dwelling by an enlargement or alteration of the single-family dwelling so long as the enlargement or alteration thereto is in keeping as near as reasonably can be with the provisions contained in this Ordinance and provided such improvement receives the prior approval of the City Board of Zoning Adjustment. Provided further, that any single-family dwelling destroyed by any means, except voluntary destruction, to an extent of more than 50 percent of its current assessed value exclusive of foundations at the time of destruction, may be reconstructed by a property owner as a single-family dwelling provided such reconstruction meets the provisions of this Ordinance as near as reasonably can be and such reconstruction receives the prior approval of the City Board of Zoning Adjustment. (Ord. 1747, 10/03)
- (7) Provided, however, no such non-conforming use of a structure or structure and premises in combination shall be allowed to continue longer than for a period of thirty (30) years from the date of passage of this Ordinance or at the end of said thirty (30) year period, such non-conforming use of a structure and premises in combination shall be terminated.

#### SECTION 11.6: REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done if any period of twelve (12) consecutive months or ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty-five (25%) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful or reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon order of such official.

**SECTION 11.7: USES UNDER EXCEPTIONS, PROVISION NOT NON-CONFORMING USES**

Any use which is permitted as an exception in a zoning district under the terms of this Ordinance, shall not be deemed a non-conforming use in such zoning district, but shall, without action, be considered a conforming use.

ARTICLE 12: CITY BOARD OF ZONING ADJUSTMENT

SECTION 12.1: CREATION, TERMS, MEETINGS, RULES

All requirements of Sections 2-3-1 through 2-3-5 of the Gering Code shall be satisfied.

SECTION 12.2: ADDITIONAL REQUIREMENTS

In addition to the immediately above, the following shall be included as requirements, administrative duties and conditions of the City Board of Zoning Adjustment.

12.201           REQUIREMENT FOR WRITTEN APPLICATION AND CONDITIONS: A variance from the terms of this Ordinance shall not be granted by the City Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land, structures, or buildings in the same district.

A written application for a variance, initiated by a property owner or authorized agent, shall be submitted to the Zoning Administrator. The application shall be filed with the Zoning Administrator at least twenty (20) days prior to the Board of Adjustment meeting. Variance requests shall include a fee set by the resolution of the City Council.  
(Ord. 1840 10/06)

All variance applications shall be submitted to the Board of Adjustment for review. The Board of Adjustment may grant variances from the provisions of these regulations but only upon reviewing the following and making the required findings:

1. Completed application forms including the payment of all fees;
2. Required findings for the zoning variance; and
3. Board of Adjustment action form completed.

(Ord. 1640, 9/99)

12.202           EFFECT OF NON-CONFORMANCE: 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;

- 12.203 PUBLIC HEARING AND FINDINGS OF THE BOARD: Notice of public hearing shall be given as in SECTION 12.2 above; the public hearing shall be held. Any party may appear in person or by agent or by attorney; the City Board of Zoning Adjustment shall make findings that requirements of this section have been met by the application for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- 12.204 CONDITIONS IMPOSED: In granting any variance, the City Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. 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 this Ordinance and punishable under SECTION 16.2 of this Ordinance.
- 12.205 USE VARIANCES: Under no circumstances shall the City Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

## ARTICLE 13: CONDITIONAL USES PERMITTED BY SPECIAL REVIEW

### SECTION 13.1: GENERAL POWERS

The City Council may grant conditional uses or special exceptions to property owners for the use of their property, after recommendation from the Planning Commission. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a specific use if it is among those uses specifically identified in the Zoning Ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building is authorized. The exceptions shall take effect upon the issuance of a conditional use permit.

### SECTION 13.2: APPLICATION REQUIREMENTS

A written application for a conditional use permit, initiated by a property owner or authorized agent shall be submitted to the Zoning Administrator indicating the section of the Ordinance to be expected and stating the reason for which it is requested. The application shall be filed with the Zoning Administrator at least fifteen (15) days prior to the Planning Commission's meeting. All conditional use permits shall be submitted to the Planning Commission for review prior to the City Council. Conditional use requests shall include a fee set by resolution of the City Council. (Ord. 1840 10/06)

If such proposed request will affect specific property, it shall be designated by legal description and general street location, and in addition to such publication notice, written notice of such application shall be mailed to all owners of land located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

### SECTION 13.3: RULES GOVERNING INDIVIDUAL EXCEPTIONS

The Planning Commission shall put its findings in writing which state the extent of compliance with the specific rules governing individual exceptions and the extent that satisfactory provisions and arrangements have been made concerning the following where applicable, and submit them to City Council:

- 13.301            ACCESS: Ingress and egress of property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- 13.302            PARKING: Off-street parking and loading areas where required, with particular attention to the items in (1) above and the noise, glare, odor or economic effects of the exception on adjoining properties generally in the district;
- 13.303            SERVICE: Refuse and service areas, with particular reference to the items in (1) and (2) above;

- 13.304 UTILITIES: Utilities, with references to location, availability, and compatibility;
- 13.305 SCREENING: Screening and buffering with reference to type, dimensions, and character;
- 13.306 SIGNS: Signs, if any, and proposed exterior lights with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- 13.307 YARDS: Required yard and other open space;
- 13.308 COMPATIBILITY: General compatibility with adjacent properties and other property in the district.

#### SECTION 13.4: CITY COUNCIL PUBLIC HEARING, CONSIDERATION AND PROCEDURE

For action on an exception, the City Clerk shall file a public notice in the legal newspaper of the City at least ten (10) days prior to the City Council's scheduled public hearing. Such notice shall fix the time and place for such hearing and contain a statement describing the request. A copy of such notice shall be mailed to each party in interest and to the City Council.

The City Council shall hear and review the request and the recommendations of the Planning Commission, and within thirty-five (35) days either: approve the request, disapprove the request, or table the request for a specified period of time with the consent of the applicant for further study and review.

Upon disapproval of a request, the City Council shall forward to the applicant a statement specifying the basis for disapproval. The City Council's action on the applicant's request shall be defined in the official minutes of the City Council's hearing.

#### SECTION 13.5: EXPIRATION OF CONDITIONAL USE PERMITS

Within one (1) year of the approval, construction of 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 the approval. The Planning Commission and City Council shall review the extension request and approve for a specified period up to twelve (12) months or disapprove, indicating their reasons for such action. The City Council's recommendations for disapproval shall be forwarded to the applicant.

After expiration, a new application is required if construction has not started and progressed according to the provisions outlined in this Ordinance.  
(Ord. 1315, 12/84)

## ARTICLE 14: ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

### SECTION 14.1: DUTIES OF ADMINISTRATIVE OFFICIAL, CITY BOARD OF ZONING ADJUSTMENT, AND COURTS ON MATTERS OF APPEAL

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the City Board of Zoning Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the City Board of Zoning Adjustment shall be to the courts as provided by law, except as provided in ARTICLE 12.

It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance, the City Council shall have only the duties of considering as provided by law and of establishing a schedule of fees and charges as stated herein.

### SECTION 14.2: ADMINISTRATION AND ENFORCEMENT

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the City Council shall administer and enforce this Ordinance. He/she may be provided with the assistance of such other persons as the City Council may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

### SECTION 14.3: BUILDING PERMITS REQUIRED

All requirements of Section 4-1-1 through 4-1-12 of the Gering City Code shall be satisfied.

### SECTION 14.4: APPLICATION FOR BUILDING PERMIT

In addition to the requirements of the Gering City Code, all applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, the provide for the enforcement of, this Ordinance.

**SECTION 14.5: CERTIFICATES OF ZONING COMPLIANCE FOR NEW, ALTERED OR NON-ALTERED OR NON-CONFORMING USE**

It shall be unlawful to use or occupy or permit the use or occupancy of any (non-farm) building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the Zoning Administrator. The certificate of zoning compliance shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance provided, that within six (6) months of the enactment or amendment of this Ordinance the Zoning Administrator shall notify in writing the owners or occupants of non-conforming uses or structures that the uses or structures are in non-conformance with the provisions of this Ordinance and that a certificate of notification within six (6) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Ordinance.

No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work.

A temporary certificate of zoning compliance may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

The Zoning Administrator shall maintain a record of certificates of zoning compliance and a copy shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this Ordinance and punishable under Section 16.2 of this Ordinance.

**SECTION 14.6: CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES OF ZONING COMPLIANCE**

Zoning compliance permits issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and application, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance and punishable as provided by SECTION 16.2.

## SECTION 14.7: NEW BUILDINGS ON UNAPPROVED STREETS

No building permit shall be issued for, or no building shall be erected on any lot within the jurisdiction of this Ordinance unless the street giving access to the lot upon which said building is proposed to be placed shall be accepted or opened as, or shall have otherwise received the legal status of, a public street prior to the time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the City Council after submission to the Planning Commission, and in case of said Planning Commission's disapproval, is later approved by a minimum of two-thirds vote of City Council. Any building erected in violation of this section shall be deemed an unlawful structure and the City may bring action to enjoin such erection or cause it to be vacated or removed.

## ARTICLE 15: AMENDMENT

### SECTION 15.1: GENERAL

The City Council may from time to time, supplement change or generally revise the boundaries of regulations contained in this Ordinance by amendment. A proposal for such amendment may be initiated by the City Council, Planning Commission or upon application of the owner of the property affected. Zoning requests shall include a fee set by a resolution of the City Council. (Ord. 1840 10/06)

In addition to the filing fee, an application shall contain the following information:

- (1) Applicant's name, address and phone number. (Applicant must be owner or have written consent of owner to be considered.)
- (2) Present owner.
- (3) Present and proposed zoning.
- (4) Property description or location.
- (5) Present and proposed use of property to be rezoned.
- (6) Adjoining property use.
- (7) Effect rezoning will have on adjoining property.
- (8) Reasons for request.
- (9) Applicant's signature.

### SECTION 15.2: SUBMISSION TO PLANNING COMMISSION

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this Ordinance and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be

mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

Failure to receive such notice shall not invalidate any subsequent action taken. Such notice is sufficient to permit the Planning Commission to recommend amendments to regulations which affect only a portion of the land described in the notice or which gave all or any part of the land described in zoning classification of lesser change than that set forth in the notice; provided, that recommending a zoning classification or lesser change than that set forth in the notice shall not be valid without republication and, where necessary, re-mailing.

### SECTION 15.3: AMENDMENT CONSIDERATION AND ADOPTION

The procedure for this consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the Ordinance except hereinbefore or hereinafter modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (  $\frac{1}{2}$  ) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the Commission; whereas a vote either for or against by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the City Council, if it approves such recommendation, may either adopt such recommendation by Ordinance or take no further action thereon as appropriate. In the event the Planning Commission submits a failure to recommend, the City Council may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the City Council disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval and such recommendation shall be considered in like manner as that required for the original recommendations returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the Ordinance shall define the change or the boundary as amended, shall order the Official Zoning Map to be changed to reflect such amendment and shall amend the section of the Ordinance incorporating the same and reincorporate such Map as amended.

### SECTION 15.4: PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more of any real property proposed to be rezoned or by the owners of twenty percent (20%) of the total area excepting public streets and ways, located within or without the corporate limits of the municipality and located within three hundred (300) feet of boundaries of the property proposed to be rezoned, the Ordinance adopting such amendment shall not be passed except by at least three-fourths (  $\frac{3}{4}$  ) vote of all members of the City Council.

ARTICLE 16: COMPLAINTS, PENALTIES, REMEDIES

SECTION 16.1: COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

SECTION 16.2: PENALTIES

Any builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be fined not more than one hundred dollars (\$100) for each offense. Each day that such violation continues shall constitute a separate offense.

SECTION 16.3: REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure or land is used in violation of this Ordinance the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation to prevent the occupancy of said building, structure of land; or to prevent any illegal act, conduct, business or use in or about such premises.



## ARTICLE 17: LEGAL STATUS PROVISIONS

### SECTION 17.1: VALIDITY

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

### SECTION 17.2: PURPOSE OF CATCH HEADS

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

### SECTION 17.3: CONFLICTING ORDINANCES

Whenever this Ordinance requires a greater width or size of yards, courts or other open spaces, or requires a lower height of building or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required in any other Ordinance or regulation, the provisions of these regulations shall govern. Wherever the provisions of any other Ordinance or regulation requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a less number of stories or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required by these regulations, the provisions of such Ordinance or regulation shall govern.

### SECTION 17.4: EFFECTIVE DATE

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



**subdivision  
regulations  
gering, nebraska**

PREAMBLE

AN ORDINANCE ESTABLISHING SUBDIVISION REGULATIONS RELATING TO THE SUBDIVISION OF LAND, REQUIRING AND REGULATING THE PREPARATION AND PRESENTATION OF PRELIMINARY AND FINAL PLATS FOR SUCH PURPOSE: ESTABLISHING MINIMUM SUBDIVISION DESIGN STANDARDS: PROVIDING MINIMUM IMPROVEMENTS TO BE MADE OR GUARANTEED TO BE MADE BY THE SUBDIVIDER; SETTING FORTH THE PROCEDURE TO BE FOLLOWED BY THE CITY COUNCIL IN APPLYING THESE RULES, REGULATIONS AND STANDARDS: AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS, AND FOR THE REPEAL OF ALL SUBDIVISION DEVELOPMENT ORDINANCES IN CONFLICT HEREWITH; FOR THE CITY OF GERING, NEBRASKA.

WHEREAS, Sections 18-1301 through 18-1307 and 19-901 through 19-1914, Reissue Revised Statutes of 1943 (in full) empowers the City to enact a subdivision ordinance and to provide for administration enforcement and amendment, and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals, and the general welfare of the City to enact such an ordinance, and

WHEREAS, land subdivision is the first step in the process of community expansion, and

WHEREAS, once land has been divided into streets, blocks, lots and open spaces, a pattern has been established which usually determines how well community needs for residence, business and industry will be met, and

WHEREAS, land subdivision determines to a great extent how well the community will be able to deal with traffic circulation problems and the demand for homesites, and how efficiently it will be able to provide the many services demanded of it, and

WHEREAS, once land has been subdivided and publicly recorded, it is extremely difficult to correct defects and deficiencies in the subdivision layout and in the facilities provided, and

WHEREAS, the guidance of land development in harmony with community objectives is a matter of serious concern and community welfare, and

WHEREAS, it is in the interest of the public, the developer, and future landowners that subdivisions be conceived, designed, and developed in accordance with sound minimum standards, and

WHEREAS, the City Council of Gering has established a Planning Commission, pursuant to Section 18-1301 through 18-1307 and 19-901 through 19-914, Reissue Revised Statutes of 1943 (in full), and

WHEREAS, the Planning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the City Council, and

WHEREAS, the City Council has given due public notice of hearings relating to proposed subdivision plats, regulations and restrictions, and has held such public hearings, and

WHEREAS, the City Council shall approve a subdivision before it can be filed and divided, and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals or the general welfare of the City; of providing for the harmonious development and coordinated layout for the subdivided area; for the proper arrangements of streets; for adequate and convenient open spaces for traffic utilities, recreation, light, air, and access of fire fighting equipment; for avoidance of population congestions through requirements for minimum lot widths and lot area; for adequate sanitary facilities; and for reducing flood damage potentials to the greatest extent possible, and

WHEREAS, all requirements of Sections 18-306, Reissue Revised Statutes of 1943 (in full), with regard to the preparation of the report of the Planning Commission and subsequent action of the City Council have been met:

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GERING, NEBRASKA:

## ARTICLE 18: GENERAL PROVISIONS

### SECTION 18.1: TITLE

This Ordinance may be known and may be cited and referred to as "Subdivision Regulation Ordinance of the City of Gering, Nebraska" to the same effect as if the full title were stated.

### SECTION 18.2: JURISDICTION

The provisions of this Ordinance shall apply within the area of planning jurisdiction as defined on the Official Zoning Map of Gering, Nebraska, as the same may be amended by subsequent annexation.

### SECTION 18.3: PURPOSES AND OBJECTIVES OF THE ORDINANCE

The Subdivision Regulation Ordinance is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically the Subdivision Regulation Ordinance is adopted in order to ensure that new development resulting in land subdivision in the City and within the area of planning jurisdiction shall conform to minimum development practices and standards. Further, it is intended that such land subdivision shall result in properly coordinated design and construction of lots, blocks, streets, utilities, public facilities, and other community assets.



## ARTICLE 19: APPLICATION OF REGULATIONS

### SECTION 19.1: GENERAL

Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this Ordinance, shall be prepared, presented for approval and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into two (2) or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. Further, the regulations set forth by this Ordinance shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this Ordinance except as hereinafter provided.

### SECTION 19.2: APPLICABILITY

- (1) Each separate principal use building within the Planning Jurisdiction of the City shall be situated on a separate and single subdivided lot of record unless otherwise provided in the Zoning Regulations for Gering, Nebraska.
- (2) No subdivision of land shall be permitted within the City Planning Jurisdiction unless a plat is approved in accordance with provisions of these regulations.
- (3) These Regulations shall apply not only to subdivision as herein set forth but shall also apply, insofar as payment of costs for improvements of subdivisions is concerned, to those subdivisions, or parts thereof, already platted and approved, which are undeveloped, wholly or partially.
- (4) These Regulations shall not apply to subdivision of burial lots in cemeteries.
- (5) These Regulations shall not apply to a division of land for agricultural purposes into lots or parcels of ten (10) acres or more and not involving a new street.
- (6) Notwithstanding any other provisions contained in this Article 19, these regulations shall not apply to a subdivision of land requested for sale purposes only and not involving a change in use of such land. Such "sales" subdivision shall require only the approval and filing of a subdivision plat describing (1) the area to be sold and (2) the area remaining from the total parcel being subdivided. Provided, any further development or change of use on either of such subdivided parcels of land shall require full compliance with all of the terms of these zoning and subdivision regulations with respect to such subdivided parcel which is being developed or is subject to a change in use. (Ord. 1654, 12/13/99)

### SECTION 19.3: PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require or impose higher standards than are

required in any other Ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other Ordinance require or impose higher standards than are required by the provisions of this Ordinance the provisions of such Ordinance shall govern.

ARTICLE 20: CONSTRUCTION AND DEFINITIONS

SECTION 20.1: CONSTRUCTION

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.

- 20.101 TENSE: Words used in the present tense include the future tense.
- 20.102 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.
- 20.103 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissive.
- 20.104 GENDER: The masculine shall include the feminine and the neuter.
- 20.105 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

SECTION 20.2: GENERAL TERMINOLOGY

The words “city” and “municipality” shall mean the City of Gering, Nebraska. The words “city council” shall mean the City Council of Gering, Nebraska. The words “planning commission” shall mean the Planning Commission duly appointed by the municipality.

SECTION 20.3: DEFINITIONS

- 20.301 TEXT OF DEFINITIONS: Words or terms not herein defined shall have their ordinary meaning in relation to the context.

For the purposes of this Ordinance certain words and terms used herein are defined as follows:

- (1) ALLEY: (See Thoroughfare)
- (2) BLOCK: A tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or a combination of the same.
- (3) BUILDING LINE: (See Setback Line)
- (4) COLLECTOR STREET: (See Thoroughfare)

- (5) COMMON OPEN SPACE: An area of land or water or combination thereof planned for passive or active recreation, but does not include area utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
- (6) 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 Control for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.
- (7) COMMON WATER SYSTEM: A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis and which is in public ownership.
- (8) COMPREHENSIVE PLAN: A general plan for the improvement and development of Gering, Nebraska as recommended by the Planning Commission and adopted by the City Council.
- (9) CORNER LOT: (See Lot, Corner)
- (10) COVENANT: A written promise or pledge.
- (11) CUL-DE-SAC: (See Thoroughfare)
- (12) CULVERT: A transverse drain that channels under a road, street, or driveway.
- (13) DEAD-END STREET: (See Thoroughfare)
- (14) DEDICATION: The intentional appropriation of land by the owner to some public use.
- (15) DEVELOPER: Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself/herself or for another.
- (16) DISTRICT: (See Zone)
- (17) DWELLING: Space, within a building, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one (1) family and its household employees.
- (18) EASEMENT: A right to use a parcel of land, granted to the general public, utility, corporation, or city, by the property owner.

- (19) ENGINEER: Any person registered to practice Professional Engineering by the Nebraska State Board of Registration who is designated by the City to approve portions of proposed subdivisions as specified in these regulations as requiring an engineer's approval.
- (20) FLOODWAY - COMMISSION: A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission.
- (21) FLOODWAY - SELECTED: A floodway within the limits of a Commission Floodway which is recognized by the Nebraska Natural Resources Commission as being subjected to a high degree of flood hazard.
- (22) FRONTAGE: The length of the property abutting on one side of a street measured along the dividing line between the property and the street.
- (23) GOVERNING BODY: The Body having jurisdiction in the zoning area.
- (24) IMPROVEMENTS: Street pavement or resurfacing, curbs, gutters, 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.
- (25) LOOP STREET: (See Thoroughfare)
- (26) LOT: For purpose of this Ordinance a lot is a parcel of land of at least sufficient size to meet minimum zoning and subdivision requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records; a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
- (27) LOT DEPTH: Depth of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (28) LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this article.
- (29) LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

- (30) LOT WIDTH: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points where they intersect with the street line, shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, or on loop streets, where the eighty (80) percent requirement shall not apply.
- (31) LOT, CORNER: Indicated as A in the following diagram, a corner lot is defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees. See lots marked A in the diagram.
- (32) LOT, INTERIOR: Indicated as B in the above diagram, and interior lot is defined as a lot other than a corner lot with only one frontage on a street.
- (33) LOT, THROUGH: Indicated as C in the above diagram, an interior lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as a double frontage lot.
- (34) LOT, REVERSED FRONTAGE: All lots with a D in the above diagram, a reversed frontage lot is defined as a lot in which the frontage is at right angles or approximately right angles, interior angle less than one hundred thirty-five (135) degrees, to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

- (35) MAJOR THOROUGHFARE PLAN: The comprehensive plan adopted by the City Planning Commission indicating the general location recommended for arterial, collector, and local thoroughfares within the planning jurisdiction of the City.
- (36) MONUMENTS: Iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners, and points of change in street alignment.
- (37) OPEN SPACE: An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, any other recreational facilities that the Planning Commission deems permissive. Streets, structures for habitation, and the like shall not be included.
- (38) OUT LOT: Property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision.

- (39) PARKING SPACE, OFF-STREET: For the purpose of this Ordinance an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.
- (40) PEDESTRIAN WAYS: A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.
- (41) PLANNED DEVELOPMENT: Special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in the Zoning Ordinance and as approved by the City Council.
- (42) PLAT: A map, drawings or chart on which the subdivider's plan of the subdivision is presented to the Planning Commission and City Council for approval and, after such approval, to the county recorded for recording.
- (43) 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 dedicate, whether improved or not.
- (44) RIGHT-OF-WAY: A strip of land dedicated to and accepted for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.
- (45) SETBACK LINE: A line established by the subdivision regulations and/or zoning ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said codes. (See Yards).
- (46) 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.
- (47) SIDEWALK: That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.
- (48) 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.

(49) STREET PAVEMENT: The wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.

(50) STREET RIGHT-OF-WAY: The area measured between property lines, dedicated to an accepted for public use and providing access to abutting properties.

(51) SUBDIVISION:

A. The division of any parcel of land shown as a unit or as contiguous on the last preceding tax roll, into two (2) or more parcels, sites, or lots any one of which is less than ten (10) acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than ten (10) acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

B. The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.

(52) SUBDIVISION DESIGN CLASSIFICATIONS: Two subdivision classifications which establish minimum design criteria and required improvements for all subdivision in the City. The classifications are defined as follows:

A. CLASS I SUBDIVISION: Rural subdivisions which include:

1. All subdivisions in the following zoning districts as defined in the Zoning Ordinance.

AGG General Agricultural District  
RRE Rural Residential Estate District

B. CLASS II SUBDIVISION: Subdivisions which include:

1. Industrial subdivisions.
2. Commercial subdivisions.

3. Residential subdivisions in the following zoning districts as defined in the Zoning Ordinance for Gering, Nebraska.

RL Residential Low Density District  
RM Residential Medium Density District  
RML Multi-Family Residential Low Density District  
RMH Multi-Family Residential High Density District

(53) SURVEYOR: Any person registered to practice surveying.

(54) 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, the right-of-way of which is 20 feet or less in width.
- 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. FRONTAGE STREET: Minor streets which are parallel to and adjacent to major streets or highways and provide access to the abutting properties and protection from through traffic.
- G. LOCAL STREET: A street primarily for providing access to residential, commercial, or other abutting property.
- H. LOOP STREET: A type of local street, each end of which terminates at an intersection with the same arterial or collector street or other local street and whose principal radius points of the one hundred and eighty (180) degree system of turns are not more than one thousand (1,000) feet from said arterial or collector street, nor normally more than six hundred (600) feet from each other.
- I. 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).

- (55) VARIANCE: A relaxation of the terms of the Subdivision Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.
- (56) 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 Gering in order to better locate and orient the area in question.
- (57) YARD: A required open space unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility and subject to the district regulations of any zoning regulations.
- A. Yard, Front: A yard extending between side lot lines across the front lot line to the front of the principal building. On corner lots in residential zones, a front yard of the required depth designated in accordance with the prevailing yard pattern is known as the "primary front yard". The designated second front yard of a corner lot with no less than one-half of the depth required for front yards in the district is known as the "secondary front yard". (Ord. 1744, 10/03).
- B. YARD, REAR: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.
- C. YARD, SIDE: A yard extending from the principal building to the side lot line on both sides of the principal building between the line establishing the front and rear yards.
- D. YARD, SPECIAL: A yard behind any required yard adjacent to a public street, required to perform from the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies.
- (58) ZONE: A section of the Zoning Area for which uniform regulations governing the use, height, area, size and intensity of the use of buildings, land, and open spaces about buildings are established.
- (59) ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these subdivision regulations.
- (60) ZONING AREA: The area subject to the provisions of Zoning and Subdivision regulations as set out on the Official Zoning Map of the City.

## ARTICLE 21: PLAT REVIEW AND SUBMITTAL REQUIREMENTS

### SECTION 21.1: PRE-APPLICATION PROCEDURE

- 21.101 PRE-APPLICATION CONFERENCE: Before filing a preliminary plat the subdivider shall consult with the City Zoning Administrator, and/or its staff for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on the topographic survey map shall be submitted. The subdivider shall also submit a vicinity map showing the relationship of the proposed subdivision to existing or platted streets and arterials and existing community facilities.
- 21.102 NOTIFICATION OF REQUIREMENTS: The City Zoning Administrator, and/or its staff shall inform the subdivider of the requirements pertaining to the proposed subdivision as such requirements are established by these Regulations.
- 21.103 WAIVER OF FEES: The pre-application procedure does not require formal application, fee, or filing of plat with the Planning Commission.

### SECTION 21.2: PROCEDURE FOR CONDITIONAL APPROVAL OF PRELIMINARY PLAT

- 21.201 PLAT SUBMISSION REQUIREMENTS AND PROOF OF OWNERSHIP: The subdivider shall submit to the Zoning Administrator not less than six (6) copies of the preliminary plat and supplemental material specified with written application for conditional approval. Said complete submittal shall occur at least twenty-eight (28) days before the regular meeting of the Planning Commission at which the request will be heard. At the same time, the application shall be accompanied by proof of ownership stating the record ownership of the tract proposed to be subdivided. The proof of ownership shall be dated not more than ten (10) days prior to the date the application is submitted to the Zoning Administrator. The proof of ownership shall be in one of the following forms or a combination of them: (Ord. 1615, 5/26/98)
- (1) A written opinion of an attorney at law licensed to practice law under the laws of the State of Nebraska.
  - (2) A photocopy of a title insurance policy, or alternatively a commitment for title insurance issued in either case by a title insurance company authorized to do business in the State of Nebraska.
  - (3) A certificate of a registered abstracter duly authorized as such according to the laws of the State of Nebraska. (Ord. 1488, 12/14/92)
- 21.202 FEES: A plat review shall accompany the application for conditional approval. Fee schedules shall consist of \$50.00 per plat plus \$1.50 per lot. An additional one hundred dollars (\$100) is required in instances in which a property is to be rezoned as discussed in Section 15.1 of the Gering Zoning Regulations.

21.203

**PRELIMINARY PLAT CONTENTS:** Preliminary plats shall be drawn at a minimum scale of one (1) inch to one hundred (100) feet. If seventy-five percent (75%) of the lots are one (1) acre or larger, the preliminary plat may be drawn at a scale of 1"=200' in either case the preliminary plats shall be prepared with the following information:

- (1) Description, acreage and name of the proposed subdivision.
- (2) Name and address of the owner, name of the person who prepared the plat, and date.
- (3) North point and graphic scale.
- (4) Names of adjoining subdivisions and properties.
- (5) Location of existing lot lines, streets, public utility easements, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision.
- (6) Layout of proposed blocks and lots, including the approximate dimensions of each, with the block and lot numbers in numerical order.
- (7) Locations, widths, and names of proposed streets, alleys, roads, easements, parks, and other open spaces or reserved areas.
- (8) Profiles of proposed streets and alleys, showing grades in percent.
- (9) Present zoning classification of the land to be subdivided and of the adjoining land.
- (10) Location and sizes of proposed culverts, storm drains, retention or detention ponds, and other drainage provisions.
  - (A) Storm Water Flow Direction - The storm water flow direction shall be indicated for existing storm water flows prior to development and the proposed storm water flow direction after development.
  - (B) Quantity of Storm Water Flow - The quantity of storm run off shall be calculated under existing and developed conditions for the one, two, and five year frequency storm. The Engineer's method of arriving at the quantity of storm water flow shall be indicated. The City should reserve the right to obtain storm quantity run off information for other frequency storms if desired.
  - (C) Non-Buildable Flood Plain Areas - A brief statement should be included if the proposed subdivision or parts thereof constructed will be in non-buildable flood plain areas.

(D) Methodology of Handling Storm Water Run Off - A discussion as to the methodology of storm water run off transportation within the subdivision should be included; detention ponds, i.e. overland flow, storm sewer, curb and gutter, etc. If drainage easements are required this fact shall be stated in the drainage report. In addition, this Section should address itself as to the location of the ultimate disposal point of storm water run off from the subdivision and its affect on adjacent and downstream owner's property drainage. Finally the affect of drainage from other subdivisions and adjacent property onto the proposed subdivision shall be discussed.

(E) Soil Types - There shall be a brief discussion as to the general soil types in the proposed subdivision. The description of the soil should include the permeability rates for each anticipated soil type.

(11) Contours at intervals of two (2) feet if preliminary plat is drawn at 1"=100' scale, or five feet intervals if preliminary plat is drawn at 1"=200' scale.

(12) A cross section of the proposed streets showing the width of roadways, location and type of curbs and gutters, paving, where required and sidewalks to be installed.

(13) The layout of proposed water mains, sanitary sewers, power lines and other utilities, with approximate grades for sanitary sewers.

(14) Proposed easements, dedications, and reservations of land required shall be provided.

(15) All preliminary plats and utility improvements (as-builts) shall be provided on compatible software as designated by the City Engineer. A disk compatible with DWG files shall be provided for each phase of the platting and subdivision process. (Ord. 1605, 1/26/98)

21.204 NOTIFICATION OF IMPROVEMENTS SCHEDULE: The subdivider shall indicate by a letter when improvements as required will be provided. Any proposed restrictive covenants for the land involved shall accompany the letter.

21.205 NOTIFICATION OF THE SCOTTS BLUFF COUNTY PLANNING COMMISSION: The municipality shall notify the County Planning Commission of any proposed subdivision plats 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 the City of Gering within the County. The commission shall be given thirty (30) days to officially comment on the the review period shall

run concurrently with the subdivision review activities of the City of Gering after the commission receives all available material for a proposed subdivision plat.

- 21.206 NOTIFICATION OF SCHOOL BOARD: At least ten (10) days prior to the 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.
- 21.207 PLANNING COMMISSION APPROVAL/REJECTION: After review of the preliminary plat and negotiations with the subdivider, the Planning Commission shall reject or conditionally approve the preliminary plat within forty (40) days after the official meeting at which the plat was considered.
- 21.208 RECORDING OF ACTION BY PLANNING COMMISSION: The action of the Planning Commission shall be noted on three (3) copies of the Preliminary Plat, referenced and attached to any conditions determined. One copy shall be returned to the Subdivider, one copy relayed to the City Council and one copy retained by the Planning Commission.
- 21.209 CITY COUNCIL REVIEW AND ACTION: After receipt and review of the Planning Commission's recommendations on the preliminary plat the City Council shall approve or reject the preliminary plat. Upon approval, with or without modifications or disapproval of a preliminary plat by the City Council, one (1) copy thereof bearing or accompanied by notations by the City Council concerning the action taken by the City Council shall be returned to the person who submitted the plat and one (1) copy to the Planning Commission.
- 21.210 APPROVAL IS CONDITIONAL: Approval of a preliminary plat shall not constitute approval of the final plat. Rather, 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 Planning Commission and 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.

### SECTION 21.3: PROCEDURE FOR APPROVAL OF FINAL PLAT

- 21.301 PLAT SUBMISSION REQUIREMENTS: Final plats shall be submitted to the Zoning Administrator 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 laws; and, if desired by the Subdivider, it may constitute only that portion of the approved Preliminary Plat which he/she proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations. Submittal of any portion of the approved area shall be interpreted as satisfying the one (1) year submission requirements.
- 21.302 FEES: A plat review fee shall accompany the application for final approval at twenty-five dollars (\$25.00) per subdivision, plus seventy-five cents (\$0.75) per lot.

21.303 SCALE AND FINAL PLAT CONTENTS: The original and six (6) copies of the Final Plat and other exhibits required by approval shall be submitted. The Final Plat shall be no larger than twenty-four (24) inches wide by eighteen (18) inches long, with a copy that is seventeen (17) inches wide by eleven (11) inches long, and shall be drawn in ink on tracing cloth, mylar, or similar material, and shall be at a scale of one (1) inch to one hundred (100) feet or to fit filing requirements. (Ord. 1746, 10/03)

The final plat shall show the following:

- (1) The name of the proposed subdivision with location by Section, Township, Range, County and State including descriptive boundaries of the subdivision.
- (2) Name of the owner, name of the person who prepared the plat and date.
- (3) North point and graphic scale.
- (4) Name of adjoining subdivisions and properties.
- (5) Layout of proposed blocks and lots, including the accurate dimensions of each, interior angles, length of radii and arc of all curves, the block and lot number in numerical order, and all other information necessary to reproduce the plat on the ground.
- (6) Locations, widths, other dimensions, and names of proposed streets, alleys, roads, easements, parks, and other open spaces or reserved areas.
- (7) Notes stating purposes and limitations of any areas dedicated to public use.
- (8) All dimensions shall be in feet and decimals of feet with angles in degrees, minutes and seconds. The allowable error of closure on the exterior boundary of the subdivision shall be one (1) foot in ten thousand (10,000) with an allowable error of closure on any portion of the final plat of one (1) foot in five thousand (5,000).
- (9) Locations and descriptions of monuments.
- (10) A certificate of the accuracy of the survey, plat and placement of monuments including a legal description of the property included in the plat, signed, sealed and dated by the registered surveyor by whom the work was done.
- (11) Certificate signed by County Treasurer stating the status of any regular or special taxes are due or delinquent against the property described in the plat.
- (12) Certification signed, dated and acknowledged before a Notary Public 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.

- (13) Certificate for approval by the Planning Commission to be signed and dated by the Chairman.
- (14) Certificate for approval by the City Council to be signed by the Mayor and Clerk.

21.304 SUPPLEMENTARY DATA REQUESTED: The final plat shall be accompanied by:

- (1) A guarantee pursuant to the provisions of Section 23.801 through 23.804 of these regulations.
- (2) Protective covenants (if any) in form for recording.
- (3) An operation and maintenance program, pursuant to the provisions of Section 23.9 of these regulations.

21.305 PLANNING COMMISSION RECOMMENDATIONS: The Planning Commission shall approve or reject the final plat and prepare a recommendation to the City Council recommending approval or rejection. All reasons for recommending rejections shall be clearly stated.

21.306 CITY COUNCIL REVIEW AND ACTION: After receipt and review of the Planning Commission's recommendation on the final plat the City Council shall approve or reject the final plat. If rejected, the reason for rejection shall be listed and forwarded to the Planning Commission and the Subdivider within ten (10) days.

21.307 REPLATS: Any existing subdivision which has been previously platted and recorded may be amended by submitting a revised final plat with the City of Gering subject to the provisions of Article 21; except that if the replat does not create more lots than originally platted and there is no change in size of the publicly owned rights-of-way and no additional property is required to be dedicated to the City, a plat which meets the requirements of 21.303 may be approved by the City Administrator and City Engineer. (Ord. 1517, 11/93)

## ARTICLE 22: SUBDIVISION DESIGN STANDARDS

### SECTION 22.1: GENERAL REQUIREMENTS

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, erosion, or other menace. If, following adequate investigation, conducted by all public agencies concerned, it is determined that land to be subdivided cannot be used without endangering the health, safety, welfare or prosperity of the community, or would necessitate an excessive expenditure of public financial resources for sewage and water facilities, other public facilities and streets, then the subdivision plat shall not be approved unless the subdivider formulates adequate methods for meeting such problems.

All subdivision design shall conform to standards of the Comprehensive Plan and to the City Zoning Regulations.

All required improvements shall be constructed or installed to conform to the provisions of this Ordinance and specifications.

### SECTION 22.2 STREETS

The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive 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.

- 22.201 **STREET EXTENSIONS:** The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas being subdivided. Where, at the determination of the Planning Commission 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 Planning Commission 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.
- 22.202 **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 Plan, or, if not shown thereon, shall meet the right-of-way requirements as provided in Schedule A of these regulations. All streets classified as arterial streets by the Comprehensive Plan shall have all points of access approved by the Planning Commission.
- 22.203 **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 these regulations. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides

of an existing street, one-half (1/2) of the required right-of-way width, measured from the center line of the existing roadway, shall be dedicated on each side of the existing street. Dedication of one-half (1/2) of the right-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

22.204 INTERSECTIONS: Streets shall intersect as nearly as possible at an angle of ninety (90) degrees, and no intersection shall be at an angle of less than seventy (70) 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 seventy-five (75) degrees, the Planning Commission may require curb radii of greater length. Whenever 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 seventy-five (75) 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.

22.205 HORIZONTAL AND VERTICAL STREET CURVES: A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets. Where there is a deflection angle of more than five (5) degrees in the alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made. The minimum radii of curves provided in Schedule A of these regulations shall be required.

Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance in accordance with Schedule A.

22.206 STREET GRADES AND ELEVATIONS: All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall be not less than one-half (1/2) of one (1) percent. Maximum street grades shall conform to the minimum requirements provided in Schedule A of these Regulations.

Where flood conditions exist, the Planning Commission shall require profiles or elevations of street in order to determine the advisability of permitting the proposed subdivision activity.

22.207 MARGINAL ACCESS STREETS: Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission 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 on which traffic volumes and vehicular speeds warrant special safety considerations, the Planning Commission 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 railroad right-of-way or limited access highway right-of-way, the Planning Commission 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, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

22.208 STREET JOGS: Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be prohibited.

22-209 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 four hundred (400) feet and shall be provided at the closed end with a turn-around having a diameter at the outside of the pavement of at least seventy-five (75) feet and a diameter at the outside of the right-of-way of at least one hundred (100) feet. The reverse radius on cul-de-sac streets shall be designed to allow for a smooth transition between the street and turn-around.

22.210 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 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 Planning Commission prior to such names being assigned or used.

Alleys are required to give access to the rear of all lots except when special approval is obtained from both the Planning Commission and City Council. The minimum width of an alley shall be twenty (20) feet. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with an adequate turn-around diameter of fifty (50) feet at the dead-end, or as determined by the Planning Commission.

#### SECTION 22.4 BLOCKS

The lengths, widths, and shapes of blocks shall be determined with due regard to the provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for convenient access, circulation, control and safety of street traffic; and limitations and opportunities of topography.

22.401 BLOCK LENGTHS: Block lengths shall not exceed twelve hundred (1,200) feet or be less than three hundred (300) feet, except as the Planning Commission considers necessary to secure efficient use of land or desired features of street layout.

22.402 BLOCK WIDTHS AND TIERS: Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, provided, that where this would require lots to front on an arterial street or highway or where topographical conditions or the size of the property prevent two (2) tiers of lots, the Planning Commission may approve a single tier of lots of minimum depth.

#### SECTION 22.5 LOTS

The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

22.501 LOT DIMENSIONS: Lot dimensions shall conform to the requirements of the zoning regulations.

22.502 Corner Lots: Corner lots for residential use shall have adequate width to permit appropriate building setback from and orientation to both streets. A front yard of the required depth, known as the "primary front yard" shall be designated in accordance with the prevailing yard pattern and a second front yard with no less than one-half of the depth required for front yards in the district known as the "secondary front yard" shall be designated. (Ord. 1744, 10/03)

22.503 ACCESS TO LOTS: The subdividing of land shall be such as to provide, by means of a public street, each lot with satisfactory access to a public street.

22.504 DOUBLE FRONTAGE AND REVERSE FRONTAGE LOTS: Double frontage and reverse frontage lots, shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and

across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

22.505 ANGLE OF SIDE LOT LINES: Side lot lines shall be substantially at right angles or radial to street lines.

#### SECTION 22.6: FLOOD HAZARDS

Land subject to flooding and land deemed to be topographically unsuitable for residential development shall not be platted for residential use or for any other use which may increase the danger to health, life, or property or aggravate erosion or flood hazards. Such land within the subdivision shall be set aside on the plat for such uses as will not be endangered by periodic or occasional inundation contrary to the public welfare. To ensure that lots will be located only where they will provide flood-free building sites, the Planning Commission may require the subdivider to provide elevation and flood profiles sufficient to demonstrate that the building sites will be completely free from the danger of flooding. If a stream flows through or adjacent to the proposed subdivision, the plat plan shall provide for easement of right-of-way along the stream for a floodway. For the smaller streams, the plan shall also provide for channel improvement to enable them to carry all reasonable floods within banks. The lowest floor elevations of structures intended for human habitation shall be one foot above the level of one-hundred (100) year frequency flood. The floodway easement shall be wide enough to provide for future enlargement of the stream channel as adjacent areas become more highly developed and run-off rates are increased.

#### SECTION 22.7: OFF-STREET LOADING AND PARKING FACILITIES

All lots or parcels platted shall provide sufficient space for off-street loading and parking facilities to meet the requirements of the zoning district within said lot of parcel platted.

#### SECTION 22.8: EASEMENTS

22.801 UTILITY EASEMENTS: Easements across lots or centered on rear or side of lot lines shall be provided for utilities, where necessary, and shall be at least ten (10) feet wide.

22.802 WATERWAY EASEMENTS: Where the subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way of such widths as will be adequate for both waterflow and maintenance operations. Parallel streets or parkways may be required in connection therewith.

#### SECTION 22.9: COMMUNITY ASSETS

In all subdivisions, due regard shall be shown for natural features such as large trees, unusual rock formations, and water courses; for sites which have historical significance; and for

similar assets which, if preserved, will add attractiveness and value to the subdivision and to the area. The Planning Commission may prepare a list of all such features within its Area of Planning Jurisdiction which it deems worthy of preservation.

#### SECTION 22.10: CONFORMANCE WITH OTHER REGULATIONS

No final plat of land within the area of force and effect of existing zoning regulations will be approved unless it conforms with such regulations. Whenever there is a variance between the minimum standards set forth in these regulations and those contained in the building code, or other official regulations, the highest standard shall apply.

#### SECTION 22.11: RESERVATION AND DEDICATION OF PUBLIC LAND AND OPEN SPACE

22.1101 RESERVATION: Before final plat approval is given the subdivider, he/she may be required to reserve sites for parks, playgrounds, open spaces and schools and other public land as determined by the Planning Commission to be sufficient and in compliance with the Comprehensive Plan. Reservation of land for public acquisition and/or use shall be for a period not to exceed three (3) years from the date the plat is officially approved and recorded unless otherwise provided in these regulations.

- (1) Where a park, playground, school or other site for public use shown on the Comprehensive Plan is located in whole or in part in the applicant's subdivision, the City may require the reservation of such area within the subdivision.
- (2) Where deemed essential by the Planning Commission upon consideration of the type of development proposed in the subdivision, and especially in large-scale developments not anticipated in the Comprehensive Plan, the City may request the reservation of such other areas or sites of character, extent or location suitable to the needs created by such development for school, parks and other neighborhood facilities.
- (3) Where a tract of land is being subdivided includes land proposed to be used for parks under the duly adopted Comprehensive Plan of the City, the subdivider shall indicate the location of such areas on the subdivision plat.
- (4) Where a tract of land is being subdivided includes land proposed to be used for a future school site, under the adopted Comprehensive Plan, the subdivider shall indicate the general location of such areas on the preliminary plat. School sites are to be reserved for two years giving the Community School District the right to purchase the land at a negotiated value or at a value determined in the same manner as required by the Nebraska State Statutes for proceedings under the power of eminent domain, plus one-half the cost of grading, utilities, and paving, including curbs, of any streets contiguous to the site, plus other approved special assessments. Should the school site not be purchased within the time limit specified above, the

subdivider may then sell said site for an alternate purpose compatible with the zoning and land uses of the adjacent property.

22.1102 DEDICATION: Before final plat approval is given to the subdivider, he/she shall be required to dedicate to the public use all streets, alleys, and buffer strips as may be required by the Planning Commission. Acceptance of these dedicated lands shall be recorded in the minutes of the City Council and on the subdivision plat.

## SECTION 22.12: LARGE TRACTS OR PARCELS

When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical re-subdivision.

## ARTICLE 23: REQUIRED SUBDIVISION IMPROVEMENTS

### SECTION 23.1 GENERAL REQUIREMENTS

The subdivider shall design and construct improvements not less than the standards outlined in these regulations. The work shall be done under City observation and inspection and shall be completed within the time fixed or agreed upon by the City Engineer. The minimum requirements for materials shall be in accordance with the standards currently in effect in the City or as approved by the City Engineer. Standards applicable to health and sanitation as required by the Nebraska Department of Environmental Control and the Nebraska Department of Health shall be the minimum standards required.

Schedules of improvements shall be prepared by the subdivider. The schedules shall contain standards, and classes of construction which are consistent within the zoning districts as identified in the Zoning Regulations of the City of Gering. The subdivider shall furnish copies of pertinent schedules and certificates of compliance as required by the City Engineer.

All inspection costs and costs for required tests shall be paid by the subdivider.

### SECTION 23.2: MONUMENTS, MARKERS AND PINS

Permanent concrete monuments shall be accurately set and established at the intersections of all outside boundary lines of the subdivision; at the intersections of those boundary lines with all street lines; at the beginning and end of all curves; at points on curves where the radius or direction changes; and at such other points as are necessary to establish definitely all lines of the plat, including all lot corners. Concrete monuments shall be at least thirty-six (36) inches long and at least six (6) inches in diameter, and shall be provided with an appropriate center point. Solid iron pins or iron pipe monuments at least one-half (1/2) inch in diameter and at least twenty-four (24) inches long may be used at all other points.

### SECTION 23.3: STREETS

- 23.301 GRADING SPECIFICATIONS: All streets, roads and alleys shall be graded to their full widths by the subdivider so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions will be allowed only with the approval of the City Council.
- 23.302 MINIMUM PAVEMENT WIDTHS: Pavement widths shall be measured between the backs of curbs. Minimum pavement or surface widths shall be provided as indicated in Schedule A (See Page S-41) of these regulations.
- 23.303 STREET SURFACING: Street surfacing shall be provided in conformance with Schedule B (See Page S-41) of these regulations or as determined by the City Engineer. Requirements for paving including curb and gutter may be waived at the request of the subdivider in the case of a subdivision wherein all of the lots in the subdivision have a minimum frontage width of three hundred (300) feet or more subject to the approval of the City Engineer. Streets in such subdivisions shall have a crushed rock or gravel surface which meets the specifications of the City.
- 23.304 CURB AND GUTTER: Curb and gutter shall as a minimum be provided in conformance with Schedule B (See Page S-41) of these regulations. In commercial developments, or where other similar intensive urban uses exist or are anticipated, curbs shall be required. Where curbs exist on abutting properties, their extension shall be required throughout the proposed subdivision. All curb and gutter shall be constructed in conformance with the minimum standards of the City and as approved by the Engineer.
- 23.305 STREET NAME SIGNS: Street name signs, of a type in use throughout the City shall be erected by the subdivider at all intersections.

#### SECTION 23.4: SIDEWALKS

Sidewalks shall be provided in conformance with Schedule B (See Page S-41) of these regulations, and Section 9-1-13 of Chapter 1 of Title IX, and shall be constructed of portland cement concrete or other acceptable material as approved by the Gering City Engineer. Sidewalk thickness shall be not less than four (4) inches.

#### SECTION 23.5: STREET AND WALKWAY LIGHTING

The subdivider may install street lights in accordance with Schedule B of these regulations and as approved by the City Engineer.

Such lights shall be located at each entrance (streets and walkways) to the subdivision. In addition, whenever the distance between two (2) adjacent street (walkway) lights would exceed three hundred (300) feet, then additional street lights shall be installed in such a manner that proper light intensity shall be provided and maintained.

New subdivision street (walkway) lighting shall be installed with all associated wiring underground.

## SECTION 23.6: UTILITY AND DRAINAGE FACILITIES

23.601 GENERAL: Sanitary sewer, storm sewer, water distribution, electrical, gas, telephone, and communications, cable, and all other utility lines shall be installed in easements wherever practical, and shall conform to the standards and specifications of the Gering City Engineer. Where it is impractical to install such utility lines in rear lot easements, they shall be installed within the unpaved portions of the street right-of-way except for sanitary and storm sewer lines which may be installed in the paved portion of the street right-of-way if it is impossible to install them in the unpaved portion.

When it is impossible to install sanitary and storm sewer lines in the unpaved portion of the street right-of-way, all such utility lines, including service connections shall be completely installed and inspected and approved by the City Engineer and Zoning Administrator, following the grading of the street and prior to the application of any pavement base.

Where sanitary and storm sewer lines are to be installed in the unpaved portion of the street right-of-way, the installation of service connections may be delayed, provided, that at such time as these service connections are installed, they shall be installed without breaking or weakening the existing pavement.

23.602 WATER SUPPLY IMPROVEMENTS: Where a public water supply is reasonably accessible or required because of pollution problems, in the determination of the Planning Commission, the subdivision shall be provided with a complete water distribution system, including a connection for each lot and appropriately spaced fire hydrants. Public water distribution and public well systems shall meet the requirements of the City and the Nebraska Department of Health.

Where public water supply is not available or not required, the subdivider shall supply acceptable evidence of the availability of water. The subdivider may be required to make one (1) or more test wells in the area to be platted if such evidence is deemed not acceptable. Copies of well logs which are obtained shall include the name and address of the well driller and shall be submitted with the plat to the Planning Commission.

Where public water supply is not available or otherwise not provided in the subdivision, the minimum lot size shall conform to the minimum lot size specified in the zoning regulations, provided, that in no case shall said minimum lot be less than one half (1/2) acre in area.

23.603 SANITARY SEWER IMPROVEMENTS: The following requirements shall govern sanitary sewer improvements.

- (1) Where an adequate public sanitary sewer system is reasonably accessible, in the determination of the City Planning Commission, and City Council, public sanitary sewer shall be installed to adequately serve all lots, including lateral connections to the public system. Public sewer system extensions shall meet the requirements of the City standards and the Nebraska Department of

Environmental Control and the Department of Health. Combinations of sanitary sewers and storm sewers shall be prohibited.

- (2) Where a public sanitary sewer system is not reasonably accessible, the subdivider may provide:
  - a. A central treatment plant for the group, provided that such central treatment plant is installed in accordance with City and Nebraska Department of Environmental Control and Department of Health requirements and approved by a licensed Engineer from the State of Nebraska; or
  - b. Lots may be served by individual disposal systems if the provisions of Section 23.603 (3) are met.
- (3) Where the installation of individual disposal systems is considered, the suitability of the soil for individual systems, the absorptive ability of the soil, surface drainage, groundwater level, and topography shall be the criteria for determining whether or not the installation of individual systems is permissible. Criteria shall be in accordance with the requirements of the City and the Nebraska Department of Environmental Control and Department of Health.
  - a. Each lot so served shall be a size and shape to accommodate the necessary length of tile field at a safe distance from and at a lower elevation than the proposed building(s). Such lot size and shape shall conform to the requirements of the zoning district in which they are located, provided, that in no case shall said minimum lot be less than one (1) acre in area where there is a public water supply available at the lot and two and one half (2-1/2) acres where there is no public water supply available.
  - b. At least one (1) percolation test shall be made for each lot area being platted, and each test shall be located in close proximity to the proposed individual sewage disposal unit, be numbered and its location shown on the preliminary plat. All percolation tests shall be performed in accordance with the requirements of the Planning Commission and the City Board of Health.
  - c. Where the installation of individual disposal units is considered and where the average natural ground slope exceeds ten (10) percent, the installation of a set-up disposal system may be required subject to specification by the Planning Commission and the City Board of Health.

23.604 DRAINAGE IMPROVEMENTS: The subdivider shall construct all necessary facilities including underground pipe, inlets, catch basins, or open drainage ditches, as determined by the City Engineer, to provide for the adequate disposal of subsurface and surface water and maintenance of natural drainage courses.

Where an adequate public storm sewer system is available within 300 feet, the subdivider shall construct a storm sewer system and connect with such storm sewer line. If such a storm sewer system is not available, natural drainage channels with easements of adequate width shall be provided, as determined by the City Engineer and approved by the Planning Commission. Drainage ditches and storm drainage, including drain tile around basements, shall not be permitted to discharge into any sanitary sewer facility, but shall connect to an adequate drainage outlet.

23.605 CULVERTS AND BRIDGES: Where natural drainage channels intersect any street right-of-way, it shall be the responsibility of the subdivider to have satisfactory bridges and/or culverts constructed. Where culverts are required, the cover over the culvert and its capacity shall be determined by the City Engineer.

23.606 EROSION CONTROL: The subdivider shall be required to provide for the control of erosion of areas of the subdivision which are disturbed by grading operations as approved by the City Engineer and the Planning Commission.

23.607 FIRE PROTECTION: Fire hydrants shall be provided by the subdivider in all subdivisions with public water supplies. The hydrants should be located between property lines and curbs with all outlets facing or parallel to the street.

The minimum size of any water line serving any hydrant shall not be less than six (6) inches in diameter. The size and location of water lines and fire hydrants shall be approved by the City Engineer.

23.608 ELECTRIC, GAS, AND TELEPHONE IMPROVEMENTS:

(1) Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Telephone, electric, and street lighting wires, conduits and cables shall be constructed underground except in cases where the City Engineer determines that topographic, bedrock or underground water conditions would result in excessive costs to the subdivider.

(2) Overhead utility lines, where permitted, shall be located at the rear of all lots.

#### SECTION 23.7: SHARED IMPROVEMENT COSTS

23.701 OVER-SIZE AND OFF-SITE IMPROVEMENTS: The utilities, pavements and other land improvements required for the proposed subdivision shall be designed of over-sized and/or with extensions provided to serve nearby land which is an integral part of the neighborhood service or drainage area as determined by the Planning Commission and City Engineer.

- 23.702 **COST OF OVER-SIZE IMPROVEMENTS:** Minimum street pavement widths shall conform to the standards given in Schedule A, inclusive. Where pavement widths greater than those specified in Schedule A are deemed necessary by the City Engineer and approved by the City Council, the City shall bear the extra cost of providing a greater than the minimum pavement width required by these regulations. The subdivider shall be required to pay for only that part of the construction costs for the arterial streets, trunk sewers, or water lines which are serving the proposed subdivision as determined by the Planning Commission and the City Engineer. The City shall pay the difference between the cost of required improvements for the proposed subdivision and improvements required to service the surrounding areas specified in Section 23.701.
- 23.703 **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 City Planning Commission.
- 23.704 **OFF-SITE EXTENSIONS:** If streets or utilities are not available at the boundary of a proposed subdivision, and if the City Planning Commission 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 approval of the final plat, to obtain necessary easements or rights-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land.

#### SECTION 23.8: SUBDIVISION IMPROVEMENT GUARANTEES

The subdivider shall complete in a manner satisfactory to the Planning Commission, and the City Engineer, all improvements required in these regulations specified in the final subdivision plat, and as approved by the Planning Commission and shall dedicate same to the City in accordance with Section 23.807 of these regulations.

The City Council shall, at its discretion, enter into a contract with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this Ordinance or otherwise specified by the Planning Commission in a manner satisfactory to the Planning Commission. To secure this contract, the subdivider shall provide, subject to the approval of the Planning Commission, one of the guarantees provided in Sections 23.801 through 23.804.

- 23.801 **SURETY PERFORMANCE BOND:** The subdivider shall obtain a security bond from a surety bonding company authorized to do business in the State of Nebraska. The bond shall be payable to the City and shall be in an amount to cover the entire cost, as estimated by the subdivider and approved by the City Engineer, of installing all contracted improvements. The duration of the bond shall be until such time as the improvements are accepted by the City in accordance with Section 23.807.

23.802 ESCROW ACCOUNT: The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank. The use of any instrument other than cash, and in the case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval of the Planning Commission. The amount of the deposit shall be at least equal to the cost, as estimated by the subdivider and approved by the City Engineer, of installing all required improvements.

In the case of an escrow account, the subdivider shall file with the Planning Commission an agreement between the financial bank and himself/herself guaranteeing the following:

- (1) That the funds of said escrow account shall be held in trust until released by the Planning Commission and may not be used or pledged by the subdivider as security in any other matter during that period.
- (2) And that in the case of a failure on the part of the subdivider to complete said improvements, then the bank shall immediately make the funds in said account available to the City for use in the completion of those improvements.

23.803 SEQUENTIAL APPROVAL OF SUBDIVISION SEGMENTS WITHOUT GUARANTEE: Where a subdivision is to be developed in several sections, the Planning Commission may, at its discretion, waive the use of a guarantee on the initial sections, provided that such sections may not be larger than twenty-five (25) lots, or fifty (50) percent of the total number of lots in the subdivision, whichever is less. The Planning Commission shall grant final plat approval for each succeeding section being contingent upon completion of all contracted improvements in each preceding section, and acceptance of those improvements in accordance with Section 23.8. Completion of improvements in the final section of the subdivision, which shall include at least twenty-five (25) lots, or fifty (50) percent of the total number of lots in the subdivision, whichever is less, must be guaranteed through the use of one of the other methods detailed under Section 23.8 of this Ordinance.

23.804 SPECIAL ASSESSMENT: The City may, at its discretion, enter into an agreement with the subdivider to pay the cost of the required improvements through the use of a special assessment. The City shall make such arrangements for actual construction and interim financing as it deems appropriate, provided that construction of improvements in any section of the subdivision shall be completed in a time period not longer than would be allowed if another form of improvement guarantee were used.

23.805 TIME LIMITS: Prior to the granting of final plat approval, the subdivider and the Planning Commission shall agree upon a deadline for the completion of all required

improvements, such deadline not to exceed two (2) years from the date of final plat approval. The Planning Commission shall have the power to extend that deadline for one (1) additional year where the subdivider can present substantial reason for doing so.

23.806 **FAILURE TO COMPLETE IMPROVEMENTS:** If any portion of the required improvements shall fail to be accepted for dedication in compliance with Section 23.807 within the allocated time period, either for reason of incompleteness or for reason of substandard construction, then the Planning Commission shall take one of the following actions:

- (1) Where improvements have been guaranteed under Section 23.801 of this Ordinance preliminary plat approval shall be revoked.
- (2) Where improvements have been guaranteed under Section 23.802 of this Ordinance, the Planning Commission shall declare whatever security has been pledged as a guarantee to be forfeited. Where the Planning Commission is not already in possession of said guarantee, it shall immediately take the actions necessary to obtain it. Upon receipt of these securities, the Planning Commission shall use them, or receipts from their sale if that be necessary, to finance the completion of contracted improvements or the rebuilding of such improvements to the proper specifications. Unused portions of these securities shall be returned to the subdivider, bonding company, or crediting institution, as is appropriate.

23.807 **INSPECTION AND CERTIFICATION:** The City Engineer, or other knowledgeable official as specified by the Planning Commission, shall regularly inspect for defects in the construction of required improvements. Upon completion of these improvements, the City Engineer or Special Project Engineer shall file with the Planning Commission a statement either certifying that the improvements have been completed in the specific manner or listing the defects in those improvements.

Upon completion of the improvements, the subdivider shall file with the Planning Commission a statement stipulating the following:

- (1) That all required improvements are complete;
- (2) That these improvements are in compliance with the minimum standards specified by the Planning Commission for their construction;
- (3) That the subdivider knows of no defects from any cause, in these improvements; and
- (4) That these improvements are free and clear of any encumbrance or lien.

If the City Engineer or Special Project Engineer has certified that the contracted improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed above, the City shall accept the dedication of those improvements. The City may, at its discretion, accept the dedication of any portion of

the required improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

23.808     **REDUCTION OF GUARANTEES:** In those cases where improvement guarantees have been made under Section 23.802 of this Ordinance, the amount of the guarantee may be reduced upon acceptance, in compliance with Section 23.807 of the dedication of a portion of the required improvements.

23.809     **RELEASE OF GUARANTEE:** Upon acceptance, in accordance with Section 23.807 of the dedication of the final portion of improvements, the City shall authorize the release of the remaining portion of the improvement guarantee.

#### SECTION 23.9:     OPERATION AND MAINTENANCE

It is the intention of the City to provide no services other than planning and zoning administration to its area of planning and zoning jurisdiction beyond the corporate boundaries of the City. Therefore, it will be the obligation of the subdivider to present to the Planning Commission and City Council a precise approach for the provision of these services. Said approach may include the formation of districts, homeowners organizations or other methods to operate and provide for long term maintenance and service. Said approach shall be made binding on the subdivider in a form, agreement, or contract in a manner which is accepted by the City Attorney.

ARTICLE 24: VARIANCES

SECTION 24.1 GRANTING OF VARIANCES; CONDITIONS

The Planning Commission may recommend and the City Council may grant variances from the provisions of these regulations 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 adjacent property.

SECTION 24.2: RECORDING OF PLAT

In no case shall the requirement of filing and recording a plat in the office of the Scotts Bluff County Register of Deeds for subdivision be waived.

SECTION 24.3: PLANNED DEVELOPMENT

The Planning Commission and City Council may also grant reasonable variances to these regulations if the subdivider concurrently submits an application for, and obtains approval of, a Planned Development. The subdivider shall indicate where his/her plans vary from these regulations and shall present sufficient evidence to support his/her request, indicating why his/her request will not be detrimental to the public health, safety and welfare.

SECTION 24.4: WAIVER FOR SMALL SUBDIVISIONS

The subdivider may make application for and the Planning Commission may grant a waiver of some or all of the requirements provided in Article 22 and Article 23 of these regulations for small residential, commercial and industrial subdivisions where the following conditions exist:

- (1) The subdivision contains no more than five (5) lots;
- (2) All lots of the proposed subdivision shall be platted on existing streets;
- (3) Street surfaces of all streets serving the subdivision shall meet or exceed street surface standards of the City;
- (4) Public water, sanitary sewer, and storm sewer facilities are available to all lots in the subdivision;
- (5) The development of the subdivision will not increase erosion or flooding potential.

A subdivider requesting a waiver under the provisions of Section 24.4 of these regulations shall submit said request in writing to the Planning Commission prior to submission of the Preliminary Plat. The request for a waiver shall include a list of all requirements for which a waiver is sought by reference to the Section numbers and the descriptive catch-heads which appear in these regulations.

ARTICLE 25: AMENDMENTS

The City Council may amend this Ordinance from time to time, provided however, that such amendments shall not become effective until a recommendation from the Planning Commission is received and a public hearing has been held as required by law.

ARTICLE 26: REPEALS

All Ordinances or parts of ordinances in conflict herewith are hereby repealed, except any ordinances that impose more restrictions than are imposed herein.

The repeal of any of the above mentioned does not revive any other Ordinances or portions thereof repealed by said Ordinances.

Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any Ordinance repealed hereby, for any offense committed prior to the repeal.

ARTICLE 27: SEVERABILITY

It is hereby declared to be the legislative intent that the several provisions of this Ordinance shall be severable, in accordance with the provisions set forth below.

If any provisions of this Ordinance is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:

- (1) The effect of such decision shall be limited to that lot, building, other structure or tract of land immediately involved in the controversy, action of proceeding in which the judgement or decree of invalidity was rendered.
- (2) Such decision shall not affect, impair or nullify this Ordinance as a whole or the application of any provisions thereof, to any other lot, building, other structure, or tract of land.

ARTICLE 28: PENALTY

Any Engineer, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Any person, firm, co-partnership, association, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed one hundred dollars (\$100) or by imprisonment not to exceed six months, or both, at the discretion of the court. The sale of each and every lot sold in violation of this chapter shall be considered a separate violation.

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

MAXIMUM INTERSECTION WITH ARTERIAL STREET	MINIMUM SURFACE NUMBER OF MINIMUM MINIMUM SPACING RIGHT OF WIDTH STOPPING WAY (ft) STREET (ft)	MINIMUM MINIMUM SPACING TRAFFIC PARKING GRADE CENTER LINE	NUMBER OF
		LANES LANES % RADIUS	
			(ft)
ARTERIAL STREET (1)	100	32 <sup>(2)</sup> (3) 2 0 7 350	-
COLLECTOR STREET (1)	80	24 <sup>(2)</sup> (3) 2 0 7 300	
1,320 250			
LOCAL STREET	60	20 <sup>(2)</sup> (3) 2 0 8 200	
1,320 175			
CUL-DE-SAC AND LOOP (5)		50 20 <sup>(3)</sup> 2 0 10 200	
CLASS II SUBDIVISIONS			
ARTERIAL STREET(1)	100	76 <sup>(2)</sup> (4) 4 2 6 300	-
COLLECTOR STREET(1)	80	42 <sup>(2)</sup> (4) 2 2 7 300	
1,320 250			
LOCAL STREET	60	37 <sup>(2)</sup> (4) 2 2 8 200	
1,320 175			
CUL-DE SAC AND LOOP(5)		50 25 <sup>(4)</sup> 2 1 10 100	

(1) Minimum standards are not applicable to roads and streets which are included on the Federal Aid-Primary or Federal Aid-Secondary systems or on the county or municipal One and Six Year Road and Street Plan.

(2) Add greater width turning lanes are to be provided: minimum turning lane = 10 feet

(3) Edge of pavement to edge of pavement.

(4) Back to back curb.

(5) For turn around requirements see Section 22.209.

SCHEDULE B: REQUIRED SUBDIVISION IMPROVEMENTS

STREET SURFACE CENTRAL CE

A.R. = AS REQUIRED BY PLANNING COMMISSION AND CITY ENGINEER.

N.R. = NOT REQUIRED, but subject to approval of Planning Commission and City Engineer.

BIT-CON = Bituminous or concrete surface.

APPLICATION FOR  
A CHANGE IN ZONING

(To be filled out by Applicant)

1. Date Filed \_\_\_\_\_ Hearing Dates
2. Applicants Name  
Address  
Telephone No.
3. Present Owner
4. Present Zoning \_\_\_\_\_ Proposed Zoning
5. Property Description or Location: Subdivision  
Other Description \_\_\_\_\_ Block No. \_\_\_\_\_ Lot No.
6. Present Use of Property
7. Desired Use of Property
8. Adjoining Property Use  
North \_\_\_\_\_ South  
East \_\_\_\_\_ West
9. If change is granted, how will it effect adjoining property?
10. Reasons for request
11. Additional Data or Comments submitted (Sketch may be requested)

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Applicant's Signature

PLANNING COMMISSION REVIEW AND RECOMMENDATION: CHANGE OF ZONE OR AMENDMENT

1. Applicant
2. Location of Subject
3. Date of Notice of Public Hearing Published  
(Shall be at least 10 days prior to public hearing).  
  
Date of Hearing
4. Items to be considered:
  - a. Does the request conform with the Future Land Use Plan?
  - b. Are adequate utilities available or needed?
  - c. Would additional police or fire protection be needed?
  - d. Is the safety of adjacent properties protected?
  - e. Would the change effect school or park needs?
  - f. Would traffic routes and volume be affected?
  - g. Would adjacent property values be maintained?
  - h. Does the change effect any proposed public projects?
  - i. Are there alternates the applicant may peruse?
  - j. Are streets and drainage adequate?
  - k. Other pertinent facts
5. General Comments



SAMPLE PRELIMINARY PLAT PLANNING COMMISSION CHECK LIST

1. Name of Subdivision
2. Location of Subdivision
3. Date Filed
4. Subdivider Name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
5. Land Owner Name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
6. Engineer or designer name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
7. Availability of an approved public water system (check one)
  1. City water available
  2. Other approved public water system available
  3. Individual wells proposed for each lot
8. Availability of an approved public sewer system (check one)
  1. City sanitary sewers available
  2. Other approved public sewer available
  3. Developer proposes to build an approved sanitary sewer system
  4. Each lot will be served with a septic tank
9. Type of storm sewer proposed (check one)
  1. Open ditch
  2. Sewer lines and catch basins
10. Classification of subdivision: Class I \_\_\_\_\_ Class II \_\_\_\_\_
11. Physical characteristics of the subdivision
  1. Land is: gently rolling \_\_\_\_\_ Steep \_\_\_\_\_ Flat \_\_\_\_\_
  2. Total acres in subdivision \_\_\_\_\_
  3. Minimum lot size \_\_\_\_\_ Square Feet
  4. Relationship to streets in adjacent subdivisions \_\_\_\_\_
  5. Are streets needed to serve adjacent unsubdivided land? yes \_\_\_\_\_ no \_\_\_\_\_
12. Relationship to the comprehensive plan
  1. Land use plan: conforms \_\_\_\_\_ does not conform \_\_\_\_\_
  2. Major streets: conforms \_\_\_\_\_ does not conform \_\_\_\_\_
  3. Parks and recreation areas: conforms \_\_\_\_\_ does not conform \_\_\_\_\_
  4. Schools: conforms \_\_\_\_\_ does not conform \_\_\_\_\_
  5. Other community facilities: conforms \_\_\_\_\_ does not conform \_\_\_\_\_



SAMPLE PRELIMINARY PLAT PLANNING COMMISSION CHECK LIST (continued)

		Yes	No
13.	Compliance with subdivision regulations		
1.	Required copies submitted	_____	
2.	Letter of transmittal	_____	_____
3.	Name, address and phone number of subdivider	_____	_____
4.	Name of subdivision	_____	_____
5.	Name, address and phone number of land owner	_____	_____
6.	Name, address and phone number of engineer or designer	_____	_____
7.	Vicinity sketch	_____	_____
8.	Location with respect to section, township and range	_____	_____
9.	Scale	_____	_____
10.	North point	_____	_____
11.	Date prepared	_____	_____
12.	Topography at minimum of five (5) foot intervals	_____	_____
13.	Approximate closing dimensions	_____	_____
14.	Relationship to streets, lots, easements and structures in adjacent subdivisions	_____	_____
15.	Names of adjacent streets	_____	_____
16.	Location and size of nearest water line, sanitary sewer and storm sewer	_____	_____
17.	Location and width of proposed:		
	(a) Streets	_____	_____
	(b) Alleys	_____	_____
	(c) Pedestrian ways	_____	_____
	(d) Easements	_____	_____
18.	Building setback lines (from zoning ordinance)	_____	_____
19.	Lot dimensions	_____	_____
20.	Lot numbers	_____	_____
21.	Block numbers	_____	_____
22.	Location of schools, parks, churches and other public and semi-public uses permitted by present zoning.	_____	_____

Checked by the Zoning Administrator this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

Signature

SAMPLE FINAL PLAT PLANNING COMMISSION CHECK LIST

1. Name of subdivision
2. Location: Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_
3. Date preliminary plat was submitted
4. Date preliminary plat was approved
5. Conditions imposed on the approved preliminary plat
6. Date final plat was submitted
7. Subdivider's name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
8. Owner's name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
9. Engineer's name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
10. Type of sanitary sewers proposed (check one)
  1. Connect with city sewer
  2. Connect to approved public sewer system
  3. Subdivider to build approved sewer system
  4. Each lot to be served by septic tank
11. Type of water system proposed (check one)
  1. Connect to city system
  2. Connect to an approved system other than city
  3. Private well or reservoir for each lot
12. Classification of subdivision: Class I \_\_\_\_\_ Class II \_\_\_\_\_
13. Complete with the subdivision regulations Yes                  No
  1. Name of subdivision \_\_\_\_\_
  2. Location with respect to section, township and range \_\_\_\_\_
  3. Does plat mathematically close to nearest hundredth of a foot \_\_\_\_\_
  4. Are closing angles shown \_\_\_\_\_

SAMPLE FINAL PLAT PLANNING COMMISSION CHECK LIST (continued)

- 5. Reference direction, distance and angle of an established section, township and range corner to point of beginning \_\_\_\_\_
- 6. Location of all subdivision boundary monuments \_\_\_\_\_
- 7. Location of all block markers \_\_\_\_\_
- 8. Lot dimensions to the nearest hundredth of a foot \_\_\_\_\_
- 9. Lot numbers \_\_\_\_\_
- 10. Block numbers or letters \_\_\_\_\_
- 11. Location and proper width of street right-of-way \_\_\_\_\_
- 12. Curve data for curved streets \_\_\_\_\_
- 13. Street and Court names \_\_\_\_\_
- 14. Location and width of alleys where required \_\_\_\_\_
- 15. Location and width of easements \_\_\_\_\_
- 16. Location and distance of building lines \_\_\_\_\_
- 17. North point \_\_\_\_\_
- 18. Scale \_\_\_\_\_
- 19. Certificate and seal of licensed engineer that the details of the plat are correct \_\_\_\_\_
- 20. Legal description of platted property \_\_\_\_\_
- 21. Dedication of easements \_\_\_\_\_
- 22. Dedication of streets and alleys \_\_\_\_\_
- 23. Establishment of building lines \_\_\_\_\_
- 24. Dedication of public open space (if applicable) \_\_\_\_\_
- 25. Space for owner's signature and notary seal \_\_\_\_\_
- 26. Certification of approval by
  - (a) Planning Commission \_\_\_\_\_
  - (b) City governing Body \_\_\_\_\_
  - (c) Board of county commissioners \_\_\_\_\_
- 27. Space for recording \_\_\_\_\_
- 28. Certificate stating taxes are paid \_\_\_\_\_
- 29. Private restrictions (where applicable) \_\_\_\_\_
- 30. Street profile (where applicable) \_\_\_\_\_
- 31. Petition for annexation (where applicable) \_\_\_\_\_

Checked by the Zoning Administrator this \_\_\_ day of \_\_\_\_\_, 19\_\_.

Signature

SAMPLE OF SUBDIVISION PLAT PROGRESS REPORT

PLAT FILE

A. Plans have been received from:

1. Planning Commission
2. City manager
3. Park superintendent
4. Superintendent of electric distribution
5. Superintendent of water distribution
6. Street superintendent
7. Board of education
8. Gas company
9. Telephone company
10. County engineer

B. Type of subdivision:

Residential  
Commercial  
Industrial  
Manufactured Home  
Hillside  
Waterfront  
Special

C. Fees Received:

\$10.00 \_\_\_\_\_ \$1.00/lot for \_\_\_\_\_ lots. Total

D. Action taken - Planning Commission

1. Pre-plat major discussion items
2. Preliminary plat approved \_\_\_\_\_ Denied \_\_\_\_\_ Date  
Major discussion items
3. Final plat approved \_\_\_\_\_ Denied \_\_\_\_\_ Date  
Major discussion items

E. Action taken - Governing Body

1. Preliminary plat approved \_\_\_\_\_ Denied \_\_\_\_\_ Date  
Major discussion items

2. Final plat approved \_\_\_\_\_ Denied \_\_\_\_\_ Date \_\_\_\_\_  
Major discussion items

SAMPLE FORMS FOR FINAL PLAT CERTIFICATION

Form 1 CERTIFICATE OF OWNERSHIP, CONSENT AND DEDICATION

(on plat) I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plat of subdivision with my (our) free consent and in accordance with my (our) desires, establish the minimum building restriction lines, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

\_\_\_\_\_, 19\_\_\_\_.  
Date

Owner

Owner

Form 2 CERTIFICATE OF ACCURACY

(on plat) I hereby certify that the plan shown and described hereon is true and correct survey to the accuracy required by the \_\_\_\_\_, Nebraska, Board of County Commissioners, (City Council), (Village Board), and that the monuments have been placed as shown hereon, to the specifications of the Zoning Administrator.

\_\_\_\_\_, 19\_\_\_\_.  
Date

Registered Engineer

Form 3 CERTIFICATE OF THE APPROVAL OF WATER AND SEWERAGE SYSTEMS

(on plat) I hereby certify that the water supply and sewage disposal utility systems installed, or proposed for installation, in the subdivision plat entitled: \_\_\_\_\_ fully meets the requirements of the Board of County Commissioners (City Council) (Village Board) and are hereby approved as shown.

\_\_\_\_\_, 19\_\_\_\_.  
Date

Zoning Administrator

SAMPLE SUGGESTED FORMS FOR FINAL PLAT CERTIFICATION (continued)

Form 4 CERTIFICATE OF THE APPROVAL OF STREETS AND UTILITIES

(attached to plat) I hereby certify: (1) that streets, utilities and other improvements have been installed in an acceptable manner and according to County (City) (Village) specifications in the subdivision entitled: \_\_\_\_\_ or, that a security bond in the amount of \$\_\_\_\_\_ has been posted with the Board of County Commissions (City Council) (Village Board) to insure completion of all required improvements in case of default.

\_\_\_\_\_, 19\_\_\_\_.  
Date

Registered Engineer

Form 5 CERTIFICATE OF APPROVAL OF THE FINAL PLAT

(on Plat) I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations Resolution (Ordinance) \_\_\_\_\_, Nebraska, with the exception of such variances, if any, as are noted in the minutes of the Board of County Commissioners (City Council) (Village Board) acceptance and maintenance of all streets, utilities and other public areas as indicated on said Plat, and that it has been approved for recording in the office of the County Clerk.

\_\_\_\_\_, 19\_\_\_\_.  
Date

Chairman, Board of County Commissioners  
(Mayor) (President, Village Board)

County Clerk

SAMPLE FORM OF SURETY PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ of \_\_\_\_\_, as Principal and \_\_\_\_\_, as Surety, are held and firmly bound unto the County (City) (Village) of \_\_\_\_\_, a county (municipal) corporation as Obligee, in the penal sum of good and lawful money of the United States, for the payment of which well and truly to be made, we do hereby bind ourselves, our heirs, administrators, executors, legal representatives, successors and assigns, jointly and severally by these presents.

WHEREAS, the Principal has applied to the Board of County Commissioners (City Council) (Village Board) pending before the Board of County Commissioners (City Council) (Village Board) of the County (City) (Village) of \_\_\_\_\_, which ordinance contains certain requisites relative to \_\_\_\_\_ all of which are specifically set forth in said Resolution (Ordinance) to which reference is hereby made and the same is hereby made a part hereof and,

WHEREAS, the full cost of said requisites has been estimated by said Board of County Commissioners (City Council) (Village Board) at \_\_\_\_\_ the penal sum of this bond, and

WHEREAS, said Principal has agreed to supply such requisites on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

NOW, THEREFORE, if the above named Principal shall comply strictly with said Resolution (Ordinance) and with all the requisites and conditions therein set forth, then this obligation shall be null and void, otherwise to remain in full force and effect.

In the event of the Principal's default in installing and/or providing requisites within the time and in the manner indicated in said Resolution (Ordinance), the Obligee may accept so much of the roads and streets shown upon said Plat as public lands shown upon said Plat and supply such requisites, said Principal and Surety remaining liable to said Obligee for the cost thereof, up to, but not to exceed the penal sum of this bond.

Dates at \_\_\_\_\_ this \_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_(SEAL)  
Witness (if individual)

\_\_\_\_\_(SEAL)\_\_\_\_\_(SEAL)  
Attest (if corporation)

APPROVED AS TO FORM

\_\_\_\_\_  
The  
County (City) (Village) Attorney

Principal  
By  
Surety

(This form is to be used only as a sample. Any performance bond form used by the County (City) (Village) should be approved by the County (City) (Village) Attorney before use.

BOARD OF ADJUSTMENT ACTION

VARIANCE

- A. Date action was taken
- B. The Board of Appeals found the following conditions:
  - 1. The condition (is, is not) unique to the property and (is, is not) ordinarily found in the same district and (was, was not) created by the owner.
  - 2. Granting of the variance (would, would not) affect rights of adjacent property owners.
  - 3. The strict application of the zoning regulations (will, will not) constitute an unnecessary hardship upon the owner.
  - 4. The variance (will, will not) adversely affect the health, safety, morals, order, convenience, prosperity or general welfare.
  - 5. The variance (will, will not) be opposed to the general spirits and intent of the zoning regulations.
- C. Action by the Board of Adjustment (Approval - Disapproval)
- D. Restrictions Imposed:

Date

Chairman

Secretary

Certified to the Zoning Administrator this \_\_\_ day of \_\_\_\_\_, 19\_\_.

PURPOSE OF SOLAR ACCESS REGULATIONS

Protecting solar access essentially means regulating development in such a way that buildings and vegetation do not block sunlight and prevent solar energy use by neighboring buildings. In other words, protecting solar access means regulating to control shadows. While the concept is relatively simple, developing this concept into regulations, a supplemental study should be conducted by the City. The City Attorney should play a vital role in such a study, due to the legal issues likely to arise once said regulations are adopted.

### LB 353-ENABLING LEGISLATION FOR ENACTING SOLAR ACCESS ZONING

The State of Nebraska recognizes the importance of protecting solar access. In 1979, the Unicameral adopted LB-353, which grants the power to local governments to enact zoning regulations which deal with solar access.

### NEBRASKA CITIES WITH SOLAR ACCESS ZONING

At present, the only Nebraska community which is exercising their solar access authority is Lincoln. In 1979, the City of Lincoln passed an ordinance and guidelines for a Solar Access Incentive for developers. This incentive allows for up to a 20% bonus in dwelling unit density in Community Unit Plans that provide for solar access through lot layout and mutual restrictive covenants. To date, no developers have taken advantage of this non-mandatory incentive program. The author of these incentive regulations is Mr. Michael DeKaulb, Planner, City of Lincoln's Planning Department, who can be reached at (402) 472-7491.

### MODEL SOLAR ACCESS ORDINANCES

The Nebraska Department of Economic Development's Division of Community Affairs, which developed the Nebraska Model Zoning and Subdivision Regulations, has not developed a model ordinance for solar access as of this time.

Likewise, the Nebraska Solar Office, University of Nebraska at Lincoln, has not developed a model solar ordinance.

There are, however, many model ordinances and solar access techniques available in published solar manuals as discussed in the next paragraph.

### SOLAR ACCESS REFERENCE MATERIALS

The most widely used reference manuals for Planning Officials and developers are two guidebooks written by the American Planning Association under contract to the U.S. Department of Housing and Urban Development (HUD).

1. Protecting Solar Access for Residential Development: A Guidebook for Planning Officials, and

2. Site Planning for Solar Access: A Guidebook for Residential Developers and Site Planners.

These two guidebooks, which explore a new approach to conventional planning practices, can be ordered from the National Solar Center in Rockville, MD, by calling toll-free (800) 523-2929. A single copy of their book is available free, while multiple copies may be ordered from the U.S. Government Printing Office, for \$4.50 each.

The techniques discussed with these manuals are just a sampling of approaches which the City can consider. Another solar access manual suggested is entitled Solar Access Law: Protecting Access to Sunlight for Solar Energy Systems. This study, as prepared by the Environmental Law Institute for HUD, discusses alternative techniques and also examines legal issues which may arise. Model legislation and local ordinances are also presented.

Another excellent reference source is entitled: A Workbook on Solar Access, prepared by Robert J. Youngberg, the Director of the Nebraska Solar Office in Lincoln, and Debra Stangl, an Attorney-at-Law and partner in the firm of Stangl and Smith, Omaha, Nebraska. Ms. Stangl wrote the enabling legislation for enacting Solar Access zoning regulations. A copy of this manual may be obtained from Mr. Youngberg, at the Nebraska Solar Office, by calling (402) 472-3414.

#### DEVELOPING A SOLAR ACCESS PROGRAM

As solar access continues to be a growing concern, the City should begin to see how it can be accommodated by local land use controls. As the just discussed references will indicate, such considerations can be surprisingly complex and comprehensive.

The manual entitled: Protecting Solar Access for Residential Development discusses that solar access provisions can be adapted in stages. In allocating time, staff, and budget to solar access protection, the logical first step is to allocate resources first to the planning stage, resulting in the adoption of specific policies regarding solar energy use and protection. This step will tell the City whether there is enough public interest and support to warrant further efforts, and it will also establish the legal basis for further regulation. Strong public policies regarding solar access can also provide a useful yardstick in developing a regulatory standards, if the City is to proceed with modifying local regulations for solar access protection.

The second step in solar access regulation can be either to modify local subdivision regulations to assure that as many lots as possible offer proper solar orientation, or to modify local zoning provisions to remove barriers to the use and installation of solar energy systems. The choice between the two options depends on the growth pressure confronting the community.

Modifying existing zoning provisions to assure solar access is the third step which the City can consider. The simplest approach would be to modify prescriptive standards such as height, setback, etc.

Finally, vegetation controls and site plan review techniques can be considered as the forth and final stage of regulation. Not all communities have such techniques within their ordinances or have the staff expertise to analyze and evaluate information presented in environmental impact statements.

Landscaping and tree ordinances also require a great deal of expertise regarding planting location, species selection, and species maintenance. Vegetation controls, in particular, are likely to raise public and political issues, as a result of people's strong feelings about trees and greenery. These techniques should be considered if the City will have the administrative skills necessary to monitor private plantings for compliance with the ordinance provisions.